HI C-PACER

Program Guide

Revised November 2024

Hawaii Green Infrastructure Authority

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Overview

Background

Joining over thirty states with active programs, in 2022, Hawaii passed Act 183, Session Laws of Hawaii, enabling the Hawaii Green Infrastructure Authority ("HGIA" or "Authority"), an agency attached to the Department of Business, Economic Development and Tourism, to establish a commercial property[1] assessed financing program, also known as commercial property assessed clean energy or C-PACE, for energy efficiency, renewable energy, water conservation and other qualifying improvements on commercial properties. With the addition of resiliency measures, Hawaii's program shall be known as the Hawaii Commercial Property Assessed Clean Energy & Resiliency ("HI C-PACER") Program.

In 2024, Hawaii passed Act 41, Session Laws of Hawaii, which amended Act 183 SLH 2022 by transitioning HI-C-PACER to a State-level, statewide program under the administration of the Hawaii Green Infrastructure Authority and included condominium associations as an eligible Commercial Property. Governor Green signed Act 41, SLH 2024 on May 30, 2024, which takes effect on July 1, 2024.

The HI C-PACER program are codified in Hawaii Revised Statutes (HRS) § 196-61, § 196-64.5, § 196-65.5, HRS § 514B-4, § 514B-41, § 514B-105, § 514B-146, § 514B-157, and HRS § 667-40.

How to Use this Guide

This guide is intended to inform and guide all parties who participate in the HI C-PACER Program. Interested parties include, but are not limited to, eligible property owners, commercial real estate developers, energy efficiency, renewable energy and other related contractors, mortgage holders, and third-party capital providers. This guide is for educational purposes only and does not constitute legal advice. Interested parties should consult with their own attorneys with respect to legal aspects of the HI C-PACER Program.

Program Overview

The HI C-PACER Program is a state-sponsored program that provides a new form of financing that helps building owners, condominium associations and property developers access private-sector financing for the installation of energy efficiency, water conservation, renewable energy, resilience and other qualifying improvements. HI C-PACER projects typically lower energy, water or insurance costs, increase renewable energy deployment, reduce greenhouse gas emissions, and create local jobs.

How HI C-PACER Works

HI C-PACER enables owners of eligible fee simple and leasehold commercial, industrial, agricultural, nonprofit, multifamily housing (containing five or more dwelling units) real property as well as condominium associations located in the State of Hawaii to access private-sector money to finance Qualifying Improvements.

HI C-PACER is economically attractive because it can provide up to 100 percent financing of Qualifying Improvements for both existing building retrofit projects as well new construction projects, eliminating or reducing the upfront cost barrier to capital intensive upgrades. The financing term can extend up to the weighted average useful life of the improvements being

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[1] Pursuant to §196-61, HRS, "Commercial Property" means any existing or new non-residential real property, including any property where there is a leasehold or possessory interest in the property; any multi-family dwelling or townhouse consisting of five or more units; any condominium association organized under Chapter 514B consisting of six or more units; and agricultural property.

financed. This unique financing enables the property owner to spread the cost of Qualifying Improvements over a longer period than could be obtained with traditional financing. In many projects the resulting utility bill or other operational savings may exceed the *annual HI C-PACER assessment payment* thereby generating positive cash flow for the building owner. Depending on the type of lease, under HI C-PACER, landlords may be able to pass on both the benefits and the costs of HI C-PACER assessments directly to their tenants.

Financiers of HI C-PACER projects are known as capital providers, and they include banks, credit unions and specialty private capital firms. Repayment is secured through a voluntary assessment on the eligible property owner's property and paid through a stand-alone bill in accordance with the QCP's amortization schedule.

HGIA maintains a list of qualified capital providers ("QCP") on the HI C-PACER program website. Property owners are free to arrange financing directly with one of the listed capital providers or bring their own capital provider to finance a HI C-PACER project, subject to HGIA acceptance as a QCP. At the request of the property owner, HGIA can Project Proposal Solicitation Form from participating QCPs.

QCPs and their project development partners are encouraged to develop projects for submission to HGIA for approval. In such instances, HGIA will not solicit financing terms from other QCPs and will work solely with the originating QCP or the QCP designated by the project developer/property owner.

HI C-PACER builds on a long history of special assessments that a local government can levy on real estate parcels to pay for projects that serve a public purpose, such as sewers, sidewalks, fire protection districts and business improvement districts. HI C-PACER serves a public purpose by providing a mechanism for Hawai'i' to increase community sustainability, reduce energy costs, reduce water use and waste, stimulate the economy, improve property valuation, reduce greenhouse gas emissions, and create local jobs.

Program Benefits

HI C-PACER offers multiple benefits to a broad range of stakeholders including eligible property owners, local governments, mortgage holders, lenders and contractors specializing in energy efficiency, renewable energy, water conservation, cesspool remediation, and resiliency measures.

Property Owners

HI C-PACER helps minimize the up-front investment and installation of Qualifying Improvements, while helping owners lower their operating costs, improve the value and market competitiveness of their asset, and comply with energy and other mandates. HI C-PACER does this in several ways.

Up to 100% Financing While HI C-PACER financing can be attractive to all property owners, it is especially so for owners who lack the capital needed to pay for beneficial energy and other improvements. For such owners, HI C-PACER solves this problem by providing up to 100 percent, long-term financing for Qualifying Improvements (subject to terms by the applicable Qualified Capital Provider). Feasibility studies, construction, financing costs, and other project costs may be included in the financing.

Long-term Financing Typically, commercial lenders finance equipment with terms up to 10-years. The longer-term HI C-PACER financing, (commensurate with

	the useful life of the improvements, typically 20 to 30 years) fully amortized over the term of financing, allows property owners to pursue more capital-intensive, comprehensive energy and other improvements. The maximum financing term cannot be greater than the useful life of the improvements.
Non-Recourse	HI C-PACER is property-based financing that is secured by a voluntary governmental assessment (lien) recorded against the property, not the property owner.
Transfers Upon Sale	Property owners who sell their building before the statutory governmental lien is repaid have the option to transfer the repayment obligation to the next owner.
Cost Recovery	HI C-PACER may help solve the split incentive or misalignment of incentives that may arise between owners and tenants. Owners are less likely to undertake comprehensive energy or other improvements when their tenants receive the financial benefits in the form of lower utility bills. Under some leases, the HI C-PACER structure may enable an owner to pass the assessment on to the tenants, potentially solving the misalignment of incentives. Property owners are encouraged to consult with their attorney or accountant on this matter.

Property owners should note that the voluntary statutory governmental lien will be considered by future mortgage lenders and may affect the terms and availability of future acquisition and refinancing of mortgage loans secured by the property.

New Construction Project Developers

Developers or owners planning to construct a new building can use HI C-PACER financing to lower their weighted average cost of capital, reduce their equity contribution or their need for other types of financing, such as mezzanine financing. Through HI C-PACER financing, developers and property owners can access capital for eligible Qualifying Improvements.

Contractors

The biggest barrier for contractors to convert leads to deals for Qualifying Improvements, such as energy efficiency, renewable energy, septic systems, fire suppression systems and water conservation measures, is their clients' lack of access to up-front financing. HI C-PACER solves this. By allowing an eligible property owner to access 100% up-front financing for hard and soft costs with terms up to the useful life of the Qualifying Improvement(s) installed, said retrofits become more affordable. The demand for these types of improvements will grow, enabling Contractors to close more projects, expand their businesses, and create jobs.

Qualified Capital Providers

HI C-PACER investments are voluntary assessments secured by a governmental, statutory lien on the property on which the Qualifying Improvements are made. Under the HI C-PACER Program, the statutory governmental lien, imposed by HGIA, is superior to any other liens except the lien for property taxes and other existing assessments imposed by a governmental authority against the property. The HI C-PACER statutory governmental lien shall have priority over any previously recorded mortgage or deed of trust lien on the property, but before the HI C-PACER financing is made, a written consent agreement must be executed by the holder of each such previously recorded lien. In the case of condominium associations, a written consent agreement is required from the holder of a valid Uniform Commercial Code financing statement or mortgage recorded with the Bureau of Conveyances that encumbers or otherwise secures the condominium.

HI C-PACER is an open capital platform in which private capital provides HI C-PACER project financing.

Mortgage Holders

The structure of HI C-PACER requires eligible property owners to receive written consent and approval from their existing mortgage holder(s) before being eligible for HI C-PACER financing. In the case of condominium associations, a written consent agreement is required from the holder(s) of a valid Uniform Commercial Code financing statement or mortgage recorded with the Bureau of Conveyances that encumbers or otherwise secures the condominium. Mortgage lenders will be stakeholders in the process of determining whether a property can undertake the voluntary statutory assessment. HI C-PACER projects typically reduce the energy, water or other costs or bring the property up to regulatory code or hardens the building. To enhance the lien holder(s) approval process, HGIA encourages projects seeking HI C-PACER financing that achieve a positive economic impact to the property. The positive impact may be achieved in different ways, such as electric or water bill savings, insurance premium savings, avoiding fines for properties out of compliance with existing regulations, etc., while increasing the value and resiliency of the property.

From the mortgage holder's point of view, a completed HI C-PACER project may have the following key benefits:

- the mortgage holder's loan is more easily repaid due to the borrower's increased cash flow as a result of operational savings;
- as a result of the improvements undertaken, the property may be more attractive to current and potential tenants or buyers;
- the assessment may not accelerate. In the event of a default, only the portion of the assessment that is in arrears is due.

Key Parties to a HI C-PACER Transaction

There are multiple parties to a HI C-PACER transaction; each plays a distinct role in the process. They include:

Property Owner	The legal owner of the property upon which the Qualifying Improvement(s) will be installed.
Program Administrator	Hawaii Green Infrastructure Authority is the Program Administrator. At its option, HGIA may retain a third-party to assist with program administration.
Capital Provider	Banks, credit unions or other specialty capital providers, who have registered with the Program Administrator under the HI C-PACER Program, can offer property owners HI C-PACER project financing. Qualified Capital Providers (QCP) provide financing directly to eligible property owners. The property owner, not the Program Administrator, is responsible for selecting the QCP. QCPs are responsible for underwriting each financing transaction to determine whether to invest in the project. Each project will be subject to review by the Program Administrator.

If a QCP chooses to invest, it will enter into a HI C-PACER Assessment Contract with the property owner and HGIA. This document details the terms and conditions under which the investment will be made. The QCP controls disbursements of the financing for costs incurred in the installation/construction of the Qualifying Improvements on the eligible property.

Within five (5) business days of execution of the HI C-PACER Assessment Contract, the Capital Provider is responsible to record a Summary Memorandum in the Bureau of Conveyances or Land Court, as may be applicable, and provide a recorded copy to the Program Administrator. Said recorded memorandum shall provide constructive notice of levy and lien, and the obligation of the Property Owner to pay the HI C-PACER Financing Assessment.

Contractors Licensed contractors, auditors or professionals that perform the work required for the analysis, installation or construction of the Qualifying Improvements. The property owner, not the Program Administrator, is responsible for conducting their own due diligence in the selection of the contractor, auditor or professional.

Program Administration

The Hawaii Green Infrastructure Authority administers the HI C-PACER Program. At its option, HGIA may retain a third-party to assist with program administration.

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Eligibility

Properties

To be eligible for HI C-PACER financing, projects must be located on eligible real property and be owned by an eligible property owner (including individuals, business entities, and nonprofits). Properties eligible for HI C-PACER financing must meet the following six requirements:

1. Be located in the State of Hawaii;
2. Have one of the following uses:
   - Commercial
   - Industrial
   - Agricultural
   - Nonprofit (e.g. houses of worship, private educational institutions)
   - Multifamily housing with five or more dwelling units (apartments, townhouses)
   - Condominium Association
   - Leasehold (on private or public property, so long as it meets one of the categories above)
3. Be current on property taxes;
4. Be current on all loans secured by a mortgage;
5. Not be insolvent or subject to bankruptcy proceedings; and
6. Not be in a dispute on title to the property.

Qualifying Improvements

An eligible project for HI C-PACER financing must be one or more Qualifying Improvements located on an eligible real property owned by an eligible property owner. The HI C-PACER program will finance the Qualifying Improvements that are permanently affixed to the building or property, including but not limited to:

Wastewater / Drinking Water
- Septic Systems
- Aerobic treatment unit systems
- Connection to sewer systems
- Drinking water projects
- Water conservation measures

Clean Energy (consistent with the State's Clean Energy Goals)
- Solar PV Systems
- EV Charging Stations
- Wind
- Fuel Cells
- Geothermal

Energy Efficiency
- Insulation
- Building Envelope
- HVAC
- Lighting
- Solar Thermal
- Heat Pumps
- Other measures approved by HGIA (in concert with Hawaii Energy)

Resiliency (improve the durability of infrastructure)
- Flood mitigation
- Hurricane mitigation
- Storm / Sea level rise
- Energy Storage Systems
- EV charging systems
- Indoor air quality
- Seismic measures
- Fire suppression systems
- Re-roofing

For Condominium Associations and 5+ Multi-family Cooperatives
- All condominium association or cooperative related improvements that are affixed to the property or building (e.g., re-piping, elevator upgrade, concrete spalling, replacing rusted rebar, swimming pool repairs, etc.) are considered Qualifying Improvements.

Other Eligible Expenses
- Energy / water audits, feasibility studies, etc.
- Soft costs (e.g., engineering and design; legal; permit fees, etc.)
- Hard costs (e.g., new ducting, wiring, roof upgrades, etc. if part of a system, i.e., cooling, heating, water, solar)
- Commissioning costs
- Beneficial electrification projects

- Prepaid operations and maintenance (O&M) costs for up to 5 years (including measurement and verification costs)
- Cost of extended warranties
- Financing costs (e.g., QCP or project developer fees, interest reserves, Program fees, title fees, recording fees, etc.)
- Ancillary costs that do not exceed 40% of the total project costs

Effective July 1, 2035, Qualifying Improvements shall be in alignment with HRS 225P-5. After this date, bridge technology shall not have a useful life beyond 2045 or have a financing term beyond 2045.

Additional Qualifying Improvements may be approved by HGIA from time to time.

Ineligible Improvements
All HI C-PACER-related improvements must be permanently affixed to the subject property. The program cannot finance improvements that include:

- Improvements that are not permanently attached to the subject property or building and which can be easily removed (not including certain lighting upgrades HGIA determines are unlikely to be removed).
- General construction costs.
- Land acquisition costs.

Ancillary Improvements

Ancillary improvements may be construction that is necessary to the functioning of an otherwise eligible measure. The inclusion of any Ancillary Improvement will be up to the Program Administrator. When in doubt, consult with the Program Administrator. Examples of Ancillary Improvements that may be included in the HI C-PACER financing include:

- Mold, lead, or asbestos remediation.
- Minor repair work undertaken with new system installations.
- Relocation of equipment associated with the installation of energy saving measures, such as relocating a packaged rooftop unit to better serve redistributed loads within a building;
- Shading devices or window coverings.
- Roof repair to support solar.
- Concrete pad or other construction necessary to support the location of an improvement.

Clean Energy/Renewable Energy Improvements

The HI C-PACER statute permits the financing of renewable energy improvements, installed on the customer side of the electric meter, that produce energy from renewable resources. These include, but are not limited to, photovoltaic, solar thermal, small wind, low-impact hydroelectric, biomass, or fuel cells.

Resiliency Improvements

Resiliency projects include an improvement to real property, facilities or equipment that increases a building's structural resiliency for seismic events, improves indoor air quality, improves wind or fire resistance, improves stormwater quality or reduces on-site or off-site risk of flash flooding, improves or enhances the ability of a building to withstand an electrical outage, reduces or mitigates the urban heat island effect or the effects of extreme heat, or reduces any other environmental hazard identified by the Hawaii Department of Health. Resiliency Improvements may be required to be evidenced by a certification of a licensed professional in the field of resiliency projects and approved by the Program Administrator. EV charging stations are also included as a resiliency improvement.

Energy Savings Requirements

Energy efficiency and renewable energy projects will typically generate utility cost savings. HGIA encourages projects with positive economic impact but does not require that savings be greater than cost.

Beneficial Electrification Projects

Beneficial electrification (or strategic electrification) projects are projects that involve the replacement of systems involving direct fossil fuel use (e.g., natural gas, propane, heating oil) with systems using electricity only. Beneficial electrification projects provide a path to buildings and systems supplied with energy from renewable energy production sources as opposed to energy production sources or systems that rely on fossil fuel use, resulting in overall emission reduction. Beneficial electrification projects are encouraged as part of Hawaii's goals to reduce GhG emissions.

While beneficial electrification provides a new approach to the energy sector that looks at energy consumption across the economy, these projects may not provide a reduction in energy consumption or utility cost savings when viewed at an individual improvement level due to the relative costs of electricity consumption charges, demand charges, and fossil fuel costs.

Retroactive Financing

Retroactive HI C-PACER financing can provide capital to eligible existing building projects that previously installed Qualifying Improvements, and to completed new construction projects that built to a high standard of efficiency and sustainability, which included measures eligible for financing under the Program. Retroactive project financing can also offer an opportunity for owners to consider and potentially include additional improvements that were not originally included in the scope of the project due to the lack of available funds or new opportunities for improvements that have since materialized, or to further improve cash flow.

These retroactively financed projects are subject to the same processes and requirements associated with other HI C-PACER financed projects, including the same eligibility requirements, program-related fees, and are subject to the following additional criteria:

- Construction of the project or installation of the Qualifying Improvements must have been completed within the five-year (60-month) period immediately preceding the date of submission of the applicant's project application form.
- The term of a retroactively financed HI C-PACER project shall be reduced by the number of years since construction completion evidenced by the Certificate of Occupancy or similar.

Retroactive financing projects are subject to the standard program administration fees. In addition, any property owner or capital provider initiating a retroactive project financing request shall be responsible for all fees and expenses associated with HI C-PACER financing, including audit, legal and title fees, as may be required.

Refinancing

Refinancing enables an eligible property owner that previously used the HI C-PACER program to finance Qualifying Improvements to an existing building or new construction project to:

- Refinance the outstanding HI C-PACER assessment lien with the existing QCP, establishing a new set of financing terms (e.g., lower interest rate or shorter finance term); or

- Refinance the outstanding HI C-PACER assessment lien with a different QCP.

If the refinancing is provided by the existing QCP, an amendment to the existing HI C-PACER Assessment Contract will be required (unless the existing QCP requires a new HI C-PACER Assessment Contract. If the refinancing is with a new QCP a new HI C-PACER Assessment Contract with the owner, new QCP, and HGIA will be required along with a release of the existing HI C-PACER Assessment Contract (in accordance with the terms set forth therein). Refinancing is limited to restructuring the outstanding HI C-PACER assessment lien. In no event shall the property owner be authorized to finance any Qualifying Improvements that were not included within the original project scope, unless the property owner separately applies for and satisfies all applicable financing criteria as set forth in this program guide.

Refinanced HI C-PACER projects are subject to the following additional criteria:

- Updated underwriting analysis;
- Mortgage holder consent (from the financial institution(s) that originally provided consent and any new lien holders);
- If applicable, development of a new amortization schedule; provided, however, that the financing term may not exceed the weighted average of the effective useful life of the improvements being financed, less the number of years since the commencement of the financing term in the existing HI C-PACER Assessment Contract;
- Processing of Release of Assessment Lien documentation (if a new capital provider is utilized) and payment of the Bureau of Conveyances recording fees.

HGIA charges a one-time program administration fee of $5,000 for project refinancing services, excluding any outside fees related to said refinance. The property owner or QCP initiating a refinancing request shall be responsible for: (1) fees associated with the issuance of a new or updated title report; and (2) other related closing fees.

HI C-PACER Process Flow

Project Development

Together with the property owner’s selected Contractor/Developer, a scope of work for the project will be developed. An audit, assessment (e.g. energy or water, etc.) or feasibility study (e.g., renewable energy, resiliency, etc.) may be required by QCPs for applicable transactions, but this is not a program requirement.

Project Financing

Once all parties agree on the scope of the project, the QCP will underwrite the HI C-PACER request within the parameters of these HI C-PACER guidelines and establish/negotiate the financing terms and conditions for the project. The QCP will make its own determination as to whether an investment in a specific project is warranted and reasonably determine that the commercial property owner is able to borrow using reasonable commercial underwriting practices. The QCP shall certify that the project meets its underwriting and cash flow requirements. Once the underwriting process is complete, the QCP will issue a conditional approval or financing commitment letter that outlines the terms of the financing, including any conditions of closing.

Title review. It will be important for a property owner and capital provider to furnish a recent title report for the property. This serves two purposes: (1) to show title being vested in a party or parties; and (2) to show the recorded monetary liens on the property.

Mortgage Holder Consent

Section 196-64.5, Hawaii Revised Statutes requires that all holders of existing mortgages/deed of trust liens against the property be notified of the proposed HI C-PACER transaction and further requires that each mortgage holder consent to the recording of the special assessment lien.

For condominium associations, in addition to existing mortgages/deed of trust liens, lender consent shall also be required for all existing recorded Uniform Commercial Code financing statements that encumbers or otherwise secures the condominium.

Written consent must be given before the Program Administrator will authorize the closing of the transaction. The Program Administrator or QCP may assist the property owner discussion with the mortgage holder to introduce the HI C-PACER program and proposed project and prepare mortgage holder consent documentation for review and delivery by the owner to the mortgage holder on the property.

Program Administrator Approval & Closing

The Project Application and Checklist, mortgage holder consent letter, and any outstanding application or project review documents must be submitted to the Program Administrator for final review. Once the Program Administrator has determined that all statutory and program requirements have been met, it will issue a final or interim determination of approval to the applicant with a copy to the QCP, along with the HI C-PACER Assessment Contract (Assessment Contract) and related documents for execution.

Prior to or at closing, the property owner and the QCP will enter into the Assessment Contract that contains the terms of the financing, the fees to be paid to the Program Administrator and the conditions and authorities under which the HI C-PACER voluntary statutory assessment will be governed, including delinquent interest and penalties and prepayment terms, if necessary. The closing, which requires that all project approval conditions have been met, will be managed by the QCP.

Recording

Once the Program Administrator has received the executed documents and confirmed that all closing conditions have been met, the Program Administrator will execute the Assessment Contract and the QCP will record a Summary Memorandum in the Bureau of Conveyances or Land Court, as may be applicable, which shall provide constructive notice of statutory governmental lien and obligation of the Property Owner to pay, the HI C-PACER Financing Assessment.

Following the recording of the Summary Memorandum, the QCP shall provide a recorded copy to the Program Administrator, which serves as confirmation of lien placement, triggering the release of funds in conjunction with the negotiated funds disbursement schedule or project disbursement agreement. The QCP is also responsible to remit any all payments due to third-party providers, including the payments due to the Program Administrator.

Construction / Disbursement

The QCP is responsible for managing the disbursements of the financing during construction per the terms of the financing agreement between the property owner and QCP. The property owner should refer to the financing agreement to understand the QCP’s requirements for periodic inspections, progress payments, and change orders.

The property owner should review the financing agreement to determine the process the QCP will require to complete the construction phase of the project and move to the permanent financing stage. At the sole discretion of the QCP, an amendment to the assessment to account for any adjustments to the principal amount of the assessment associated with capitalization of construction interest or any other cost adjustments incurred during construction of the project may be requested by the property owner and approved by the QCP. Should the QCP approve, it will notify the Program Administrator and record in the land records a Confirmation and Amendment of Special Assessment Lien. Any adjustments to the payment schedule must fully amortize the amount financed over the remaining terms of the contract. A copy of the recorded amended statutory governmental lien shall be provided to the Program Administrator.

Construction Completion Certification

Upon completion of the installation of the Qualified Improvements, the property owner shall issue a certificate of completion to the QCP. A copy of each fully executed Completion Certificate will subsequently be provided by the QCP to the Program Administrator. The Completion Certificate shall include an attestation by the property owner that the installations of each Qualifying Improvement were completed and the Qualifying Improvements are in good working order. In addition, the Financing Agreement authorizes the QCP to inspect the property and property owner records (as necessary) to assure completion of the Qualifying Improvements in accordance with the requirements of the Assessment Contract and the HI C-PACER Statute.

The QCP may require more detailed verification of project results and operating performance. While not required, this post-construction commissioning effort, conducted by a third party, is recommended for projects with greater complexity, uncertainty, or savings at risk. Said reports, if obtained, shall also be provided to the Program Administrator.

In the event the property owner seeks to amend the statutory governmental lien post-closing, e.g., increase the lien amount due to greater than expected construction costs, each of the key steps described above would need to be conducted again. Furthermore, a prorated Program Administration fee would apply.

Servicing / Repayment

Financing granted under the HI C-PACER program is repaid to the QCP by the property owner through financing assessment payments, billed and collected by the Program Administrator in accordance with the QCP's amortization schedule in the Assessment Contract.

Owners should be aware that a failure to make a payment on a HI C-PACER assessment will give rise to the same consequences as a failure to pay a mortgage or other governmental liens, which could include penalty interest and fees as well as a foreclosure sale, as allowed under Section 667-40, HRS, to recover the amount owed.

Quality Assurance Review Requirements

Audit Requirements for Retrofit Projects[2]

While HGIA does not require an energy or water audit, it recommends energy or water studies or assessments for the purposes of determining the eligibility of the improvements with analysis on the expected energy and/or water cost savings of the improvements over their useful lives, by a licensed Contractor or Professional.

[2] The Project Applicant is responsible for all costs and fees incurred as a result of the HI C-PACER program application, including costs associated with audit and renewable energy feasibility study (which may eventually be included in the project financing), even in cases where the project does not ultimately move forward to construction. HGIA is not responsible for any costs incurred by program applicant in the event of a denied application.

For **energy efficiency projects**, HGIA encourages, at minimum an ASHRAE Level I audit or comparable analysis.

For comprehensive, multi-measure energy efficiency projects the QCP may require the performance of an ASHRAE Level II energy audit that takes into account the interactive effects of the multiple improvements.

For all **renewable energy improvements**, HGIA encourages, but does not require, the applicant to submit a Renewable Energy Feasibility Study (REFS). The REFS will provide technology and financing recommendations that a property owner or project developer should pursue.

Project applicants are responsible for all costs and fees incurred to complete the HI C-PACER program application, including costs associated with a study and/or a REFS. While such costs are typically included in the project financing, in cases where the project does not move forward, the applicant will be responsible for any payments due to contractors or other third-parties engaged by the owner, where applicable.

For **resiliency projects**, the project may be determined to be appropriate through a resiliency review conducted by a licensed professional in the relevant field of the Resiliency Project (e.g., architects, landscape architects, engineers, environmental health specialist, land use planner and other licensed professionals) demonstrating that the proposed Qualifying Improvements improve the resiliency of the structure in accordance with local or national codes or guidelines.

New Construction

In addition to existing building retrofits, HI C-PACER provides a compelling financing opportunity for new construction projects. This attractive HI C-PACER financing structure can unlock capital to enable a property owner or developer to achieve higher building performance—improvements that are often “value engineered” out of a project. HI C-PACER new construction financing may also reduce the developer’s equity contribution, the need for mezzanine financing or other types of new construction financing, thereby reducing the weighted average cost of capital.

Unlike retrofits to existing properties where the savings from qualifying energy improvements can be demonstrated by referencing pre-improvement baseline consumption data, new construction has no baseline against which to measure improvements[3]. Thus, the HI C-PACER program has designed a separate process for new construction projects.

When applying for HI C-PACER financing for a new construction project the applicant must demonstrate that either a) each energy or water efficiency improvement or renewable energy or resiliency improvement or b) the whole-building, utilizing accepted modeling standards, will at minimum meet the County’s Building Code requirements.

Given the complexity of new construction projects and considerations around incorporation of the HI C-PACER financing into a project’s capital stack, project developers are strongly encouraged to engage with the Program Administrator, with the help of its QCP, early in the project development process. Additionally, given the potential for longer construction periods and the

[3] This is also the case when an abandoned building is being rehabilitated or a building is being fundamentally repurposed. Consequently, such rehabilitation or repurposing can be treated the same as new construction for the purpose of HI C-PACER.

need for these projects to stabilize financially, new construction projects may be financed incorporating both capitalized interest and interest-only periods.

Payment Process

How Funds are Collected and Disbursed to QCP

In accordance with the QCP's amortization schedule, the Program Administrator will issue a bill and collect assessment installment payments through automated clearing house (ACH) pull payments authorized by the property owner. Checks will be accepted on a case-by-case basis.

HGIA will remit the amount collected to the QCP five (5) business days after the payment has been made, net of HGIA's servicing fee. Late, partial payments and non-payments will be pursued by the Program Administrator, in accordance with the C-PACER Act, the Program Administrator's collection procedures, the QCP's Financing Agreement and Chapter 667, HRS.

Default and Exercise of Remedies

Property owners should be aware that any failure to make a payment on a HI C-PACER assessment will give rise to the same consequences as a failure to pay a mortgage or other governmental liens, which could include penalty interest and fees as well as a foreclosure sale to recover the amounts owed. Because HGIA is the enforcing entity, timing to enforce may more approximate a mortgage than a property tax delinquency.

Financing Structure

Qualified capital providers may provide HI C-PACER financing to eligible property owners for Qualifying Improvements. The Program Administrator maintains a list of QCPs on the HI C-PACER program website. All capital providers not defined by Section 412:1-109, Hawaii Revised Statutes, must be approved by the Program Administrator.

Eligible property owners should become familiar with the following important features of HI C-PACER financing. The principal amount will be equal to all project costs that the property owner may choose to finance through the program, which may include costs associated with project implementation, such as permits, audit expenses, closing fees, and capitalized interest. The rate of interest on the financing will be established by the QCP.

Financing Term

The recommended maximum finance term is based on the weighted average effective useful life of the Qualifying Improvements.

Security

The financing is evidenced by the HI C-PACER Assessment Contract or Summary Memorandum, secured by a statutory governmental lien established pursuant to the Act 41, SLH 2024, and recorded in the Bureau of Conveyances or Land Court against the eligible commercial real property. Under the HI C-PACER Program the statutory governmental lien shall have priority over all other liens except the liens for property taxes and assessments lawfully imposed by governmental authority against the property, provided further that for multiple liens of assessments, the earlier lien shall have priority over the later lien. Only of the amount of the HI C-PACER assessments, penalties and fees currently due and/or in arrears is subject to collection and enforcement by the Program Administrator. The HI C-PACER statutory governmental lien shall have priority over any previously recorded mortgage or deed of trust lien on the property, but before the HI C-PACER financing is made a written consent agreement must be executed by the holder of each such previously recorded lien[4].

Underwriting Standards

The Program Administrator does not establish the underwriting requirements for HI C-PACER financing. Rather, each QCP uses its own underwriting criteria and must reasonably determine that the property owner is able to borrow using reasonable commercial underwriting practices and shall certify that the project meets it underwriting and cash flow requirements.

Financing Costs and Interest Rates

The applicable interest rate and fees are set by the QCP.

Mortgage Holder Consent[5]

When there is an existing mortgage or deed of trust recorded against the property, the mortgage holder must be given written notification that the property owner intends to enter into a HI C-PACER financing contract, which cannot proceed without the written consent of the mortgage holder. The consent confirms that the proposed HI C-PACER financing does not constitute an event of default under the terms of existing agreements between the property owner and the mortgage holder. Note that for condominium associations, evidence of a recorded loan may be found as a UCC recording in the Bureau of Conveyances.

Transfer or Resale of the Subject Property

If the property is sold prior to the end of the agreed-upon special assessment period, the new owner will assume the HI C-PACER assessment obligation, unless otherwise negotiated. Ownership of any Qualifying Improvements on the subject property will transfer to the new owner at the close of the real estate sale. Qualifying Improvements financed through the program may not be removed from the property until the HI C-PACER assessment has been fully repaid. In connection with any sale, program participants agree to make all legally required disclosures about the existence of the special HI C-PACER assessment lien on the property.

Other Assessment Terms and Conditions

If a QCP requires property owners to agree to yield maintenance or prepayment fees, to protect their investment, any such arrangement is between the property owner and the QCP.

Program Administration

Program Requirements

This section outlines the guidelines that govern all participants in the HI C-PACER Program. All participants agree to adhere to the terms and conditions of the Program requirements.

Service Area	State of Hawaii
Eligible Property	Commercial, industrial, agricultural, retail, nonprofit, leasehold, condominium associations and multifamily properties with five or more units.
Size Thresholds	There are no upper limits on that amount that can be financed. QCPs, however, may have a minimum financing requirement.

[4] For condominium associations, this includes record UCC-1 Financing Statements.

[5] For condominium associations, this includes recorded UCC-1 Financing Statements.

Eligible Applicant The owner of an eligible property that meets all the qualifications established by these guidelines.

Security The financing is evidenced by an Assessment Contract and is secured by a statutory governmental lien that is recorded in the Bureau of Conveyances or Land Court, as may be applicable, against the eligible property. The statutory governmental lien is senior to all other liens, including commercial mortgages and deeds of trust, except a lien for real property taxes and other existing governmental assessments lawfully imposed by a governmental authority against the property. Because of this, HI C-PACER requires the written consent of all holders of mortgages or deeds of trust on the property prior to securing HI C-PACER financing.

Credit Standards For each eligible property for which the property owner seeks to participate in the HI C-PACER program, the property owner must be current and in good standing on all debt owed to the county in which the property is located; current on all real property taxes and assessments; have no outstanding involuntary liens, including construction liens that will not be paid, or otherwise bonded to the satisfaction of the QCP or satisfied upon HI C-PACER closing, collections, or charge-offs; be current on existing mortgages and may not be in bankruptcy proceedings; and title to the eligible property may not be in dispute.

Eligible Uses Eligible uses include payment of the cost of Qualifying Improvements to an eligible property, the cost of eligible expenses, such as those that are directly related to the installation of Qualifying Improvements (for example the cost of a roof replacement to support a solar installation), energy audits or studies, commissioning, closing fees and other HI C-PACER program costs, and the cost of Ancillary Improvements.

Lien-to-Value For properties valued[6] at less than $1.0 million, the HI C-PACER financing shall not exceed, the lesser of 25% of the HI C-PACER lien to value or 90% of the cumulative lien to value.

For properties valued at $1.0 million or more, the HI C-PACER financing plus existing mortgage debt shall not exceed a cumulative lien to value of 90%.

Appraisal Requirement The value of the property shall be determined by an appraisal or tax assessed value as complete or as stabilized, acceptable to the QCP, with a valuation date no more than 12 months old, to be submitted with the application.

Maximum and Minimum Term The maximum finance term is based on the weighted average useful life of Qualifying Improvements. The HI C-PACER program

[6] The QCP shall determine the source of the value of the property (e.g., County real property tax value or appraised value).

does not maintain a minimum project life or minimum finance term requirement. However, QCPs may have their own minimum term, often in the range of 5 to 10 years.

Amortization The HI C-PACER financing is fully amortized over its term.

Payment and Servicing The ongoing billing/collections process is the Program Administrator's responsibility.

Evidence of Ownership A title report is required prior to closing to show both evidence of ownership and all encumbrances recorded against the property.

Participation in Rebate / Incentive Programs

Although not required, the HI C-PACER program encourages property owners to pursue all available federal investment tax credits, public benefit fee rebates, and incentive programs. Rebates and incentive programs provide participants with cash payments or tax credits for implementing energy improvements.

Program Participation Fees

The HI C-PACER program is self-financed through fees charged to eligible property owners. These fees cover the recurring costs to administer the program. A one-time program administration fee, as a percentage of the financing amount indicated below, is due to the Program Administrator:

Financing Amount	Program Administrator
Up to $999,999	50 basis points
$1,000,000+	1.0% (cap of $75,000)

For Condominium Associations and 5+ Multi-family Cooperatives only:

- 25 basis points (cap of $75,000)

The fees and expenses of the QCP may also be charged to the property owner at closing. Program fees shall be remitted by the QCP to the Program Administrator within five (5) days of the closing, along with a recorded copy of the Summary Memorandum.

Administrative Servicing Fee

The Program Administrator will be responsible for the billing and collection of the assessment based on the QCP's amortization schedule. The servicing fees are as follows and will be included in the amortization schedule included in the Assessment Contract:

Financing Amount	Amount Included with Each Payment
Up to $999,999	$100.00
$1,000,000+	$200.00

For Condominium Associations and 5+ Multi-family Cooperatives only:

- $25.00 per payment

HI C-PACER Assessment Release

Once a HI C-PACER assessment is recorded, the HI C-PACER assessment must be paid by the property owner to the Program Administrator in accordance with the agreed-upon amortization schedule, as set forth in the Assessment Contract. If the property owner intends to prepay or otherwise pay in full all other amounts due under the Assessment Lien, the Program Administrator must be notified by the property owner and/or QCP as soon as possible in order that the property owner, QCP and the Program Administrator may review and agree upon the proper payoff amounts and confirm the payoff date.

Once the property owner has paid all amounts due to the QCP through the Program Administrator, the QCP shall execute the Release of Assessment Lien and provide a copy of the Release to the Program Administrator for execution. Upon execution, the Program Administrator will cause a copy of the fully executed Release to be recorded in Bureau of Conveyances or Land Court, as applicable. A one-time fee to recording fee to record the Release will apply and must be paid by the Property Owner and received by the Program Administrator prior to recording.

Property Owner Participation and Process

HI C-PACER is an innovative financing program that enables owners of commercial, industrial, agricultural, nonprofit, leasehold, condominium associations and multifamily housing (containing five or more dwelling units) real property located in the State of Hawaii to use private-sector money to finance Qualifying Improvements. By providing up to 100 percent, affordable, long-term financing for Qualifying Improvements, the program helps building owners lower their operating costs and improve the value of their asset.

Benefits

Many property owners lack the capital they need to pay for energy, water conservation, resiliency and other improvements, often stalling many beneficial projects. The HI C-PACER program benefits property owners by providing access to affordable, long-term capital at competitive rates. HI C-PACER financing:

- Requires no upfront, out-of-pocket costs
- Provides long-term financing up to the useful life of the equipment
- Requires no personal guarantees
- Lowers energy, water and other costs
- May generate positive cash flow
- Can transfer to the next owner if the property is sold.

Eligibility

Anyone who owns an eligible property which is located in the state of Hawaii is eligible to participate in HI C-PACER financing. Owners of nonprofits, e.g., houses of worship and private schools and universities, are also eligible.

Process

To get started, property owners work with a contractor of their choice. The Program Administrator makes no representations or warranties with respect to contractors and does not qualify or evaluate contractors.

Property owners may also use a QCP of their choice or may ask the Program Administrator to solicit terms from QCPs for the property owner to choose the best option for them.

Note that the HI C-PACER Assessment amount will be equal to all project costs that the property owner may choose to finance through the program, which may include costs associated with project implementation such as permits, audit expenses, closing fees (including closing fees of the capital provider and the Program Administrator), and capitalized interest. The rate of interest on the financing will be negotiated and established between the property owner and the QCP.

To support their underwriting efforts, QCPs may request the following:

- A copy of the most recent mortgage statement and appraisal[7];
- The current year (year-to-date) income/expense statement for the property;
- The previous two years' income/operating statements, statements of cash flows, and balance sheets for the property;
- The previous two years' audited (if available) income/operating statements, statements of cash flows, and balance sheets (audited or reviewed, if available) for the tenants' business;
- A table listing all tenants, their monthly (or annual) lease payments, the percentage of the building they occupy, and the end date of their existing leases;
- The previous year's federal tax returns if the property is planning to claim the value of the federal Investment Tax Credit or MACRS depreciation.

Capital Provider Participation and Process

Eligibility

The HI C-PACER program seeks to stimulate the market through an open-access-to-capital model. To participate in the HI C-PACER program, a capital provider must become qualified by submitting a Capital Provider Registration Form. To maintain its status, the QCP must promptly disclose to the Program Administrator any material changes to the initial application; the HI C-PACER program reserves the right to rescind the QCP's status if the QCP is found to be in violation of any of the standards set forth in this Program Guide or for any other reason that the Program Administrator finds to be in violation of good practices of the program.

For projects where the property owner has not pre-selected a capital provider, QCPs will be notified of the opportunity via email. Should a property owner pre-select a capital provider for a specific project, the capital provider must complete and submit a Capital Provider Registration Form to the Program Administrator if they are not already registered with the program.

How to Qualify

To register as a Qualified Capital Provider for the HI C-PACER program, simply download, complete, and submit the Capital Provider Registration Form. The approval process may take up to 10 business days. Once a capital provider is approved, the firm's name and contact information will be displayed on the HI C-PACER website for marketing purposes. By establishing capital provider registration, the Program Administrator is not recommending or endorsing any specific capital provider.

Ways to Participate

Registered qualified capital providers can participate in HI C-PACER in two ways:

1. Work with property owners to underwrite projects and help them prepare their application for financing approval. We encourage capital providers to register with the program prior to submitting a project application.
2. Collaborate with the Program Administrator to evaluate funding opportunities. In some instances, property owners may apply for HI C-PACER without a pre-selected capital provider. In this case, the Program Administrator will share pre-approved project information with registered capital providers for their determination of project funding interest.

[7] The value of the property shall be determined by an appraisal or tax assessed value, acceptable to the QCP, with a valuation date no more than 12 months old.

Education Requirements
Capital providers must educate property owners about the costs and risks associated with participating in HI C-PACER, including but not limited to the effective interest rate of the statutory governmental lien and financing assessments, fees charged, and risks related to the failure of the property owner to pay the special assessment.

Mortgage Holder Participation and Process

HI C-PACER is an innovative, voluntary financing program that enables borrowers to modernize their building by installing Qualifying Improvements funded with affordable, long-term financing.

Benefits
Across the country, commercial property assessed financing programs have been embraced by more than 170 national, regional and local mortgage holders.

Participation
The HI C-PACER program may provide up to 100% financing to commercial property owners for eligible measures. The financing, which is based on the estimated useful life of the improvements, is secured by a statutory governmental lien. The statutory governmental lien is senior to all commercial mortgages, junior only to real property taxes and other existing governmental assessments, as may be applicable, to the extent only of the amount of the HI C-PACER assessments, penalties and fees currently due and/or in arrears.

In accordance with Section 196-64.5, HRS, property owners are required to obtain the written consent of all holders of mortgages on the property as a condition of HI C-PACER financing.

General Terms and Provisions

Taxes
Property owners are solely responsible for any local, state, or federal tax consequences of their participation in the HI C-PACER program.

Changes in Program Terms; Severability
HI C-PACER reserves the right to change this Program Guide and the terms and provisions set forth within at any time without notice. The Financing Agreements executed between the property owner and the QCP govern the financing relationship between the parties. This Guide is only a reference document.

Disclosure of Property Owner Information
All property owner information is treated with care to protect the property owner's privacy and security. In addition to any disclosure requirements necessitated by applicable records law, property owners must agree to allow the Program Administrator to disclose personal/corporate information that it submits to third-parties when such disclosure is essential to the conduct of HI C-PACER business or to provide services to the property owner. HI C-PACER will not provide property owner information to third parties for telemarketing, e-mail, or direct mail solicitation.

Fraud
Giving materially false, misleading, or inaccurate information or statements to the Program Administrator or any of their employees and agents (or failing to provide the Program Administrator with material information) in connection with a C-PACER financing application packet, energy or other audit or study, written professional assessment, Capital Provider Application and Participation Agreement, or any other information regarding the C-PACER

financing request is punishable by law. Material representations include, but are not limited to, representations concerning the project costs and the ownership structure and financial information relating to the property and the applicant.

Releases and Indemnification

By submitting a C-PACER request, the property owner acknowledges that HI C-PACER was created solely to help property owners in the State of Hawaii finance Qualifying Improvements. HI C-PACER is a financing program only, and is not responsible for the installed C-PACER improvements or their performance. Property owners are responsible for payment of the statutory assessment regardless of whether the products are properly installed or operate as expected.

Exceptions to these Terms and Provisions

The Program Administrator may make exceptions to the terms and provisions detailed in this Program Guide where there is a finding that such exception furthers the goals and objectives of HI C-PACER and the State.