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Alfred M. Pollard, General Counsel

Federal Housing Finance Authority,
Eighth Floor 400 Seventh St, SW.
Washington, DC 20219

March 15, 2020

RE: DOCKET: No. 2020-N-1

Dear Alfred Pollard, et al.:

PACE Funding Group thanks you for the opportunity to comment on Notice No. 2020-N-1 -PACE Request for Input.

My staff and myself have thoroughly reviewed the comments and questions that you circulated in January this year, and respectfully draw your attention to the attached letter which has been produced as a collaborative effort by ourselves together with our colleagues at Renew Financial, FortiFi Financial, and Renovate America. We have drawn on the years experience of residential PACE across California and and Florida, and refer to data produced by multiple studies.

In particular we would draw your attention to the Conclusion of the detailed response as follows:

The FHFA should not take action or make policy changes to its regulated Enterprises regarding residential PACE for the following three reasons:

1. *PACE does not materially increase financial risk to the Enterprises*. On the contrary, all available evidence suggests precisely the opposite is true: PACE lowers the financial risk to the Enterprises and, in turn, yields net positive financial benefits to both homeowners and federal taxpayers.
2. PACE financed home improvements *measurably increase the value of homes and often reduce homeowners' energy costs and home insurance premiums*. These factors make homeowners with PACE assessments more likely to benefit financially and fulfill their mortgage obligations
3. Federal action or policy changes to potentially limit access to mortgages in communities that offer PACE would *infringe on the well-established rights of state and local governments* to finance public purpose improvements using special property tax assessments.

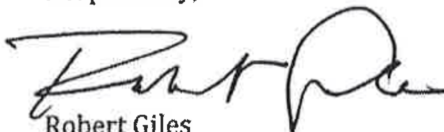
For these reasons, it's essential for the FHFA to carefully balance any of the expected benefits of federal action or policy changes regarding residential PACE against the potential downside economic effects on the country's major housing and mortgage industries. Ironically, many of the policy changes under consideration in the RFI — e.g. decreasing loan to value (LTV) ratios in all states and communities that make PACE financing available — could increase the underlying material financial risk to the Enterprises to a far more significant degree than any supposed threat posed by PACE assessments. Federal policy changes along these lines would thus be counter-productive and self-defeating.

Without even a single mortgage lender in California having made a reimbursement claim on a property with a PACE lien in foreclosure, it's unclear on what factual grounds FHFA is basing its expressed concern of "material financial risk". State lawmakers in California created the PACE Loss Reserve Program out of abundance of caution to guard against this remote possibility. The results over the last decade clearly indicate that it was not needed as an extra mortgage insurance safeguard, given that the realized risk of PACE to mortgage holders and insurers has never in fact materialized.

The more recent case study in Florida demonstrates how residential PACE-financed improvements in resilience-building serve to reduce the risk of major property damage and, by extension, better protect the value of the underlying assets of the Enterprises. Because of these PACE-financed improvements in projects ranging from hurricane impact windows and doors to replacement roofs, several studies estimate the avoided property damage to be north of $1.2 billion. As such, the FHFA should take note of how PACE improvements often serve to improve the hurricane safety and robustness of homes, particularly in vulnerable regions like South Florida. These critical investments ultimately lower risks to the Enterprises.

Given the full body of evidence presented, *we strongly urge the FHFA to not pursue the proposed actions in this RFI*, which lack a rigorous empirical basis and could lead to significant economic consequences. Going forward, we remain fully committed to working with the FHFA to evaluate any analyses or policy questions under consideration, and to offer feedback from industry professionals as appropriate.

Respectfully,



Robert Giles
CEO

March 16, 2020

Alfred M. Pollard, General Counsel
Attn: PACE Request for Input, Notice No. 2020-N-1

Federal Housing Finance Authority, Eighth Floor
400 Seventh St, SW.
Washington, DC 20219

RE: <u>DOCKET: No. 2020-N-1</u>

Dear Alfred Pollard, et al.:

Thank you for the opportunity to comment on the Federal Housing Finance Authority's ("FHFA") Request for Input ("RFI") regarding residential Property Assessed Clean Energy ("PACE"). We recognize the critical role the FHFA plays in promoting the overall soundness and stability of the United States housing market, as the federal conservator of Fannie Mae and Freddie Mac. With the detailed response below, we have sought to provide the FHFA with a complete view of the residential PACE marketplace. The data and case studies included with this letter clearly demonstrate that residential PACE programs *<u>do not</u>* present a threat to the quality and stability of Enterprise loans. On the contrary, PACE programs provide significant financial benefits to homeowners and the GSEs.

As stated in the Notice, the overarching rationale of this RFI is to solicit public comment on potential changes to FHFA's policies for its regulated entities based on "safety and soundness concerns."[1] For a variety of listed reasons, the FHFA has made clear that it views PACE as a threat to first lien mortgage holders, homeowners, and the broader portfolio of GSE-guaranteed mortgages. We strongly object to these enumerated concerns, which are wholly unsubstantiated and inconsistent with the findings of numerous third-party analyses conducted by DBRS Morningstar, Kroll Rating Agency, the Journal of Structured Finance, the University of South Florida, the University of Southern California, and others.

The guiding premise of the FHFA's RFI – that residential PACE programs may materially increase financial risks to the Enterprises – is notably unsupported by data or third-party analysis. There has been no empirical evidence ever identified, presented, or quantified that shows that mortgage-holders or GSEs have experienced a meaningful financial loss due to PACE assessments. By contrast, this response is based on numerous third-party analyses, industry data, and empirical evidence gathered in Florida and California. When considered altogether, the evidence in support of residential PACE is overwhelming. What it shows is that PACE programs *<u>lower</u>* the financial risks to the Enterprises and, in turn, yield significant benefits to homeowners, states and municipalities, and federal taxpayers alike.

[1] See: https://www.federalregister.gov/documents/2020/01/16/2020-00655/property-assessed-clean-energy-pace-program

The experience in California provides a compelling case study meriting closer review. Over the last six years (2014 - Current), a real-world measure of the financial risk PACE presents to first mortgage holders has been rigorously tested in the nation's largest housing market. In 2014, California's PACE Loss Reserve Program ("Reserve Program") was launched to allay previous concerns raised by the FHFA about PACE. Specifically, the Reserve Program was designed to mitigate the risks to first mortgage lenders by making them whole for any losses incurred due to PACE assessments being paid before the outstanding mortgage balance in the event of foreclosure or forced sale.

As this letter explains in greater detail, the results are unambiguous and definitive: Not one single claim for reimbursement, to date, has been made by any mortgage holder.[2] According to the state public agency in charge of managing the Reserve Program, the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), the same $10 million in original funding is expected to last well beyond the next decade since not one cent of this fund has been drawn upon. As such, the potential impact of PACE in terms of "added material risk" is no longer the same hypothetical question it was back when the FHFA issued its Notice of Proposed Rulemaking related to PACE in 2012 (RIN 2590-AA53). We now know, based on the large and mature market sample of PACE assessments originated in California over a six-year period (as further described in **Section I** below), that PACE poses no increased financial risk to mortgage-lenders or the Enterprises.

In light of this overwhelming evidence, the proposed actions by the FHFA are neither necessary nor economically justifiable. This response aims to clarify and correct many of the central misunderstandings about the impact of residential PACE and its particular effects on the safety and soundness of the Enterprises. We have therefore structured our response under three (3) key points below:

1. *PACE does not materially increase financial risk to the Enterprises*. On the contrary, all available evidence suggests precisely the opposite is true: PACE lowers the financial risk to the Enterprises by creating net positive financial benefits for both homeowners and federal taxpayers.

2. PACE financed home improvements *measurably increase the value of homes and often reduce homeowners' energy costs and home insurance premiums*. PACE financed resilience improvements also reduce the risk of total home loss in the event of a natural disaster. These factors make homeowners with PACE assessments more likely to benefit financially and fulfill their mortgage obligations, while at the same time increasing the value of the underlying assets.

3. Federal action or policy changes to potentially limit access to mortgages in states, cities, and counties that offer PACE would *infringe on the rights of state and local governments* to help their constituents make critical energy-efficiency, natural disaster, drought, and climate resiliency improvements using their local property taxation and assessment powers.

For these overarching reasons above, the policy changes under consideration in this RFI are both unwarranted and economically indefensible. Many of these proposed actions would have the effect of penalizing entire states or local government jurisdictions that offer PACE as a home improvement financing option by making it tougher for all prospective homeowners to qualify for mortgages. The

[2] See: https://www.treasurer.ca.gov/caeatfa/pace/faq.asp

FHFA should take heed of these unintended consequences, which could serve to negatively impact major real estate markets and local economies if the FHFA were to implement the suggested measures.

Given the current market instability, such moves would be resoundingly unwise. As explained below, these proposed actions would severely undermine the longstanding and firmly-rooted authority of state and local governments to tax their constituents and provide capital for public purpose improvements. Accordingly, we summarize our response to the FHFA's questions regarding potential actions as follows:

1. The FHFA *should not* direct the Enterprises to decrease loan-to-value (LTV) ratios for all new loan purchases in states or in communities where PACE loans are available.

2. The FHFA *should not* direct the Enterprises to increase their Loan Level Price Adjustments (LLPAs) or require other credit enhancements for mortgage loans or re-financings in communities with available PACE financing.

3. The FHFA *should not* consider other actions regarding Enterprise purchase or servicing requirements in jurisdictions with PACE programs. Current protections are sufficient, as evidenced by lack of any documented harm to GSEs.

4. The FHFA *should not* establish safety and soundness standards for the Federal Home Loan Banks to accept as eligible advance collateral mortgage loans in communities where PACE loans are available.

5. *None* of the actions outlined in Questions 1 through 4 of the RFI are warranted in light of empirical evidence and public data available.

6. With respect to questions 5 and 6, we note that some R-PACE providers in California are already collaborating to create a real-time database that may help alleviate some of the concerns FHFA has highlighted. More generally, the entire industry is united and committed to finding a real-time data solution to address this issue and better track the current status of PACE assessments.

7. With respect to question 7, California law already requires all applicants for PACE financing to acknowledge and initial the following statement: *"I understand that I may be required to pay off the remaining balance of this obligation by the mortgage lender refinancing my home. If I sell my home, the buyer or their mortgage lender may require me to pay off the balance of this obligation as a condition of sale"*. This disclosure and acknowledgment must be made before the homeowner enters into an assessment contract. In addition, before a homeowner executes an assessment contract, California law requires PACE program administrators to conduct a live, recorded phone call with the homeowner informing the homeowner that *"the property will be subject to a lien during the term of the assessment contract and that the obligations under the assessment contract may be required to be paid in full before the property owner sells or refinances the property"*. The statute also has numerous additional consumer disclosures made in writing and orally, and requires that the disclosures be made in the customer's chosen language or with the assistance of an interpreter.

8. Question 8 is well beyond the authority of the FHFA to address the safety and soundness concerns of the Enterprises under its conservatorship duties. As acknowledged, the Consumer Financial Protection Bureau's rulemaking process pursuant to Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155) is well underway, and questions relating to the ability of consumers to pay for PACE assessments and how to address the "unique nature" of PACE are being addressed by that agency. The other questions posed by the FHFA within question 8 are within the jurisdictions of state and local governments that have established and are implementing PACE authority. As described above, California has designated its Department of Business Oversight as the primary agency with responsibility to regulate PACE program administrators and solicitors, and the regulatory framework is extensive. The California DBO has already proposed regulations and has provided the public with opportunities to comment thereon. These questions are beyond the scope of the FHFA's jurisdiction.

9. This question is similarly beyond the scope of the FHFA's authority. On account of the considerable evidence based on the actual implementation of PACE in two of the largest U.S. states over the past 8 years, our response to these questions is *"no"*.

We hope the views and robust evidence presented in **Sections I-III** (see below) of this comment letter help to inform the FHFA and alleviate the chief concerns expressed. As the public comment review process unfolds, we remain steadfastly committed to working with the FHFA to evaluate any analyses or policy questions under consideration, and to provide feedback from industry professionals as appropriate.

In short, we strongly urge the FHFA to *not make any further restrictive policy changes regarding PACE*, which would likely devastate local housing markets (e.g. in California, Florida, and Missouri[3]) and further hinder the ability of low- and moderate-income homeowners to improve the energy efficiency of their homes and better protect their families against ever frequent natural disasters. Denying these low- to moderate-income homeowners a proven financial solution for hardening their properties against hurricane devastation, wildfire risk, or earthquake exposure would be a public policy and regulatory mistake.

[3] Note: Most of the data presented relates to California and Florida, the two largest residential PACE markets. However, smaller R-PACE programs also exist in Missouri and Ohio. Policy changes by the FHFA would also negative impact these markets as well.

Section I.

***PACE does not materially increase financial risk to the Enterprises*. On the contrary, all available evidence suggests precisely the opposite is true: PACE lowers the financial risk to the Enterprises by creating net positive financial benefits for both homeowners and federal taxpayers.**

The FHFA has voiced its concern on several occasions that PACE may materially increase the financial risks to the Enterprises. The FHFA argues that PACE, *"comes at the expense of existing lien holders, who have not had the ability to consent or not consent to the new lien and unexpectedly bear a new risk of loss that did not exist at the time the mortgage was originated"*. [4] Yet, as explained in **Section III** below, PACE is like any other local government special property tax assessment secured by a senior lien, which is never subject to mortgage holder consent. This precedent has long-existed and represents nothing new.

Fortunately, it's now possible to put the FHFA's claim above to the test and ascertain if residential PACE indeed requires first mortgage holders to bear a *"new risk of loss"* and, if so, to what extent.

A. California Case Study - PACE Loss Reserve Program

In California, the PACE Loss Reserve Program was established in 2014 specifically in response to the FHFA's earlier concerns about the perceived threat of PACE to existing first mortgage holders.[5] As mentioned, the Reserve Program was designed to mitigate the potential risk to first mortgage holders by making them whole for any losses incurred due to the existence of a first-priority PACE lien on a property during a foreclosure or forced sale. Each eligible financing originated by an enrolled PACE administrator and included in its semi-annual reports may be covered by the Reserve Program for its full term — a form of extra mortgage-insurance, effectively speaking.

In terms of this preventative loss coverage, the Reserve Program reimburses first mortgage lenders for two primary types of eligible losses: *"(1) PACE assessments paid while a first mortgage lender is in possession of the property during a foreclosure, and (2) Losses incurred by a first mortgage lender resulting from PACE assessments being paid before the outstanding balance in a forced sale"*.[6] This voluntary state-based loss coverage applies broadly to financings for energy or water efficiency improvements, clean energy improvements, and electric vehicle charging infrastructure.

Over the course of the last six years, between 2014 and 2020, the residential PACE industry in California grew significantly, reaching a cumulative total of over $5 billion invested across 230,000 projects. Despite this substantial increase in PACE assessments and overall volume, one relevant data point remained stubbornly constant throughout this period of enormous growth: the number of loss reimbursement claims made by first mortgage-holders. Incredibly, that figure is *exactly zero*. There have been no claims made by mortgage-holders for a total of $0 in losses attributable to PACE. The total number and value of PACE financings currently enrolled in the California Loss Reserve Program is not insignificant, either. As of today, over 156,415 residential PACE financings with a total PACE principal

[4] See: https://www.federalregister.gov/documents/2020/01/16/2020-00655/property-assessed-clean-energy-pace-program
[5] See: https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Enterprise-Underwriting-Standards-PACE-Proposed-Rule.aspx
[6] See: https://www.treasurer.ca.gov/caeatfa/pace/faq.asp

value of over $3.3 billion are enrolled in the Reserve Program.[7] Relative to the size of the entire residential PACE market, the Reserve Program covers the vast majority of California PACE assessments.

Of particular relevance to this RFI, it's also worth noting that CAEATFA was mandated to collect data on the performance of PACE financing over time to better understand the actual risk to mortgage lenders and inform future best practices for residential PACE financing.[8] According to California State Treasurer, Fiona Ma, *"The results over the last six years speak for themselves: The California PACE Loss Reserve Program has not been used at all"*. In California Treasurer Ma's public comment letter to the FHFA in response to this RFI, she also explicitly states, *"these empirical results from California collected over the last six years clearly demonstrate that the risk PACE poses to first mortgage lenders and the Enterprises is essentially non-existent. This extremely positive outcome actually exceeds the performance of mortgages more generally, since the first mortgage lender always assumes some risk in lending"*. [9]

While it's true PACE financing, like other forms of local government special property tax assessments, stands ahead of the existing first mortgages in terms of lien priority, the financial consequences of this centuries-old structure to mortgage holders and the FHFA have not changed in any discernible way. It's therefore unclear why, or on what factual basis, the FHFA is concerned about the relative subordination of mortgage security interests insured by Fannie Mae and Freddie Mac in the case of residential PACE. Simply put, the large-scale, real-world experiment with residential PACE in California has proved highly successful, yielding no realized losses for first mortgage lenders or cause for concern.

From a risk-mitigation perspective, these empirical results collected over the better part of a decade throw cold water on the notion that PACE programs expose first mortgage lien holders to added risk. In fact, the results of this $3.3B mature sample of mortgages with PACE assessments in California exceed the performance of mortgages without PACE assessments more generally. The California home foreclosure rate average is approximately 0.04%, whereas no mortgage lenders have claimed losses on foreclosed properties with PACE assessments.[10] What's immediately relevant, in this case, is that all evidence to date suggests PACE assessments have not financially hurt the bottom line for first mortgage holders.

B. Property Tax Delinquency Rates

The FHFA also raises a concern about the potential effects of adding PACE assessments to the annual property tax liabilities of homeowners. Specifically, the RFI notes, *"Enterprises require lenders to include homeowner property tax payments that would include PACE assessments as a component of the loan applicant's present or future housing expense to calculate DTI for loan eligibility. Unavailable data on DTI may permit a homeowner to incur more debt with lenders unaware of the PACE obligation due to a lack of DTI information or potentially inaccurate credit scores"*.[11] The underlying concern here is that PACE assessments, as a special mechanism for funding clean energy and resilience-related home improvements (e.g. hurricane impact windows), increase the property taxes of homeowners and therefore raise their ongoing annual payment obligations without notice to lenders or the FHFA. In theory, higher

[7] See: https://www.treasurer.ca.gov/caeatfa/pace/activity.asp
[8] See: https://www.treasurer.ca.gov/caeatfa/pace/faq.asp
[9] See: https://www.fhfa.gov//SupervisionRegulation/Rules/Pages/Comment-Detail.aspx?CommentId=15470
[10] See: https://www.realtytrac.com/statsandtrends/foreclosuretrends/ca/
[11] See: https://www.federalregister.gov/documents/2020/01/16/2020-00655/property-assessed-clean-energy-pace-program

annual tax obligations could increase the likelihood that homeowners with PACE assessments may become delinquent on their property taxes and, subsequently, pose some added risk to the first mortgage lender's ability to recover its investment in the event of foreclosure or forced sale. Once again, however, these theoretical concerns have not been borne out in practice.

Take the empirical findings from a recent 2018 study by DBRS Morning Star, a global credit ratings agency. DBRS made use of PACE delinquency data provided by David Taussig & Associates ("DTA")[12] for the Renovate and Renew Financial programs starting in the tax year of 2013-2014 through to the tax year of 2016-2017. The DTA Data is grouped by tax year for each administrator and provides past due balances at various points in time over the course of the tax year and the total annual levy due. Using the DTA Data, DBRS then calculated the delinquency rate in the following manner: the delinquency rate following the first installment due date to March) is equal to the delinquent amount divided by half the annual levy since only half of the levy is due at the first installment.[13]

This independent study ultimately found that homeowners in California with PACE assessments have property tax delinquency rates that are, in fact, *lower* than the general public aggregate property tax and single-family (residential-only) property tax delinquency levels.[14] Other significant takeaways from their research findings also include the following:

- While residential PACE is still a relatively new asset class, there is sufficient data to analyze performance in recent years. The limited performance history shows strong performance with very low delinquency levels around 2%, declining to less than 1% within 12 months;[15]

- PACE delinquency metrics are lower than general aggregate property tax and single-family residential only property tax delinquency levels. PACE also shows consistent performance and very low volatility across tax years.[16]

Thus, contrary to the concerns above expressed by the FHFA, this recent DBRS study found that California homeowners with PACE assessments are *less likely* to be delinquent on their property taxes compared to the general population of homeowners with residential mortgages (i.e. those without PACE assessments). More specifically, the results indicate that homeowners with PACE assessments have consistently *lower* property tax delinquency rates, ranging from 0.6% to 1.25%, than the general population of homeowners over the measured period from 2014 to 2017.

In an entirely separate June 2018 report, the Kroll Bond Rating Agency ("Kroll") also reviewed the property-tax performance data for California homes with PACE assessments and reached the same general conclusions. For its data source, Kroll reviewed the empirical performance data from the California Department of Business Oversight's annual report of PACE originators and general property tax delinquency information presented for the State of California by LERETA, a tax service vendor. In its overall assessment, the study concluded there is *"no significant difference in the rates of property tax*

[12] Note: David Taussig & Associates (" DTA") is a special tax administrator.
[13] See: https://www.dbrsmorningstar.com/research/323286/dbrs-publishes-commentary-on-residential-pace-delinquency-trends
[14] See: Ibid.
[15] See: Ibid (Note: The tax delinquency performance range was mostly around 2%, with a peak of 4%.)
[16] See. Ibid

delinquency for residential properties with a PACE assessment compared to residential properties without a PACE assessment".[17] Even more tellingly, the Kroll study also stated that concerns about foreclosures on properties with PACE assessments *"may be overstated"* since the evidence suggests otherwise.

Both of these independent, data-centered analyses therefore arrived at the same main conclusion: homeowners with PACE assessments are not at increased risk of delinquency and default on their mortgage obligations. Despite concerns voiced by the FHFA[18], it is evident from the empirical data gathered in California that homes with PACE assessments have a lower rate of property tax delinquency compared to the general population of residential properties. These findings further shed light on the non-material risk PACE poses to the Enterprises and, by extension, federal taxpayers.

C. Non-Acceleration of PACE reduces mortgage lender risk

In a 2016 public statement to the California Legislature, Alfred Pollard (General Counsel, FHFA) emphasized that, *"One of the bedrock principles in this process is that the mortgages supported by Fannie Mae and Freddie Mac must remain in first-lien position, meaning that they have first priority in receiving the proceeds from selling a house in foreclosure. As a result, any lien from a loan added after origination should not be able to jump in line ahead of a Fannie Mae or Freddie Mac mortgage to collect the proceeds of the sale of a foreclosed property."*[19] He went on further to argue that PACE, as a private investment opportunity, *"comes at the expense of existing lien holders [Fannie Mae & Freddie Mac], who unexpectedly bear a new risk of loss"*.

This view reflects several misunderstandings that deserve unpacking. While it's true PACE takes a superior lien position to the first mortgage in the event of foreclosure, the FHFA does not raise safety and soundness concerns regarding this priority in the case of countless other types of local government special property tax assessments. For instance, the FHFA does not raise concerns about the imposition of water district taxes, fire district taxes, or even other property tax assessments relating to improvements to private residential property (e.g. seismic retrofits, septic tanks, sewer laterals, or sideway repairs), which can be placed on properties at any time to provide for valuable public services. Although PACE uses private capital as its funding source, the same is true of many other forms of municipal finance. Properly understood, PACE is a centuries-old local government financing mechanism that has evolved and been repurposed to address current public policy challenges, such as the need for increased energy efficiency, storm-hardening, wildfire safety improvements, drought mitigation, and other environmental needs.

The average size of the annual PACE assessment for homeowners is another important factor that ought to be considered in a comprehensive risk-analysis by the FHFA. In terms of scale, PACE assessments are far more comparable in size to unsecured personal loans than traditional first lien mortgages. By way of comparison, the average PACE assessment bill translates into a monthly payment of $220 — a figure much closer to the cost of a cell phone than a mortgage payment (e.g. $1000+ per month, dependent on many factors). The upshot is that the financial risk associated with PACE should be understood as quite

[17] See: https://www.krollbondratings.com/show_report/11071
[18] See: https://www.federalregister.gov/documents/2020/01/16/2020-00655/property-assessed-clean-energy-pace-program
[19] See: https://www.fhfa.gov/Media/PublicAffairs/Pages/Pollard-Statement-before-California-Legislature-Keeping-Up-with-PACE.aspx

low given the size of the annual PACE payment relative to outstanding mortgage obligations. For most homeowners, PACE assessment payments also represent just one portion of their total property tax liability over the appropriate payment period (e.g. annual or semi-annual).

Like other forms of local government special tax assessments, PACE assessment also cannot be accelerated by any governmental or private entity if or when a property owner defaults. This means only the past due assessment installments are recoverable by the local government lien holder on foreclosure, rather than the total principal amount due over the life of the assessment contracts. Thus, under no circumstances does a local or state taxing authority have the power to call the assessment forward other than the current balance due and any amount in arrears.[20] Property owners alone have the right to prepay a PACE assessment in-full at their convenience or will. These unique features explain why PACE assessments are considered "non-accelerating", even in very rare cases of foreclosure.

As an example, take a hypothetical, average-sized $20,000 PACE assessment on a property with a typical 6% interest rate and 20-year repayment term. In a foreclosure by a PACE provider, the PACE provider would only receive the estimated $1,200 in arrears from the preceding tax year — not the full remaining principal balance. For a sense of scale, this represents less than 0.5% of the average outstanding mortgage balance in California.[21] The extent to which PACE liens are prioritized or "cut the line" on first mortgage lenders is therefore highly limited. In most instances, we are talking about a few thousand dollars in total; clearly not a material amount that exposes the Enterprises to any degree of financial risk worthy of policy changes. Indeed, this is effectively a drop in the bucket in the context of a property foreclosure.

The fact that *only the delinquent portion* of PACE assessment would have superior lien priority in payment over the remaining balance of the first mortgage is worth repeating. This significantly reduces the material risk to first mortgage holders and distinguishes PACE from other nongovernmental sources of financing for home resiliency improvements. Oftentimes, it is falsely claimed that the entirety of an unpaid PACE assessment amount would take priority (i.e. get repaid first) over the first mortgage holder in the event of foreclosure or forced sale. This claim is incorrect and vastly overstates the issue at hand.

Despite concerns otherwise, it's also worth pointing out that the legal structure for recouping losses makes PACE assessments on foreclosed properties an unfavorable outcome for PACE providers. The full remaining principal balance of a PACE assessment is not collected in foreclosure, but rather stays with the property. Hence, PACE providers financially benefit most from full and successful repayment terms with homeowners – not from foreclosures or mortgage defaults. This incentive structure rightfully aligns the mutual interests of homeowners and PACE providers, and further ensures that PACE providers properly underwrite their financing contracts in a responsible manner.

D. Florida Case Study - Resiliency-Building & Reduced Residential Property Damage

The results collected in California over the last six years authoritatively demonstrate that residential PACE *does not* materially increase risk to the Enterprises. However, the recently measured consumer outcomes in Florida provide yet another real-world case study that makes an even more impressive

[20] See: https://eta-publications.lbl.gov/sites/default/files/lbnl-4553e.pdf
[21] See: https://www.experian.com/blogs/ask-experian/how-much-americans-owe-on-their-mortgages-in-every-state/

finding: Namely, that residential PACE *lowers* the financial risk to the Enterprises by creating net positive financial benefits for both homeowners and mortgage lenders.

In 2010, the Florida Legislature first passed statewide legislation that enabled local governments to offer residential PACE as a safe and affordable home improvement financing solution to their constituents. Since then, the residential PACE industry as a whole (i.e. including all major PACE providers) has invested over $1.05 billion of private capital and helped Florida homeowners complete over 51,000 projects related to resilience-building, energy efficiency, and renewable energy.

The enormous scale of storm-hardening investments in Florida is particularly noteworthy. Over the last three years alone, the residential PACE industry has funded over 28,000 resilience-related home improvement projects in Florida for a cumulative private investment of approximately $668 million. This reflects an emerging trend in consumer demand, where Florida homeowners are increasingly relying on PACE to finance improvement projects that make their homes more resilient to natural disasters, such as hurricanes and large storm systems that recur on a regular annual basis.

While many of the direct benefits of PACE financing to consumers are well-documented — e.g. a reduction in electric energy and water utility costs — other valuable benefits are more indirect, such as avoided property damage and reduced property insurance premiums. A March 2019 study by the University of Southern California's Schwarzenegger Institute and Sol Price School of Public Policy sought to more rigorously quantify these indirect "value-added" benefits.[22] The results of their findings were striking: The study found that $275 million of PACE-financed resilience improvements in Florida had led to over $507M in avoided property damages and $134 million in homeowner disaster relocation and displacement costs from hurricanes (see graph below).

These estimated impact figures (see graph below) were based solely on the investments made by a single PACE provider in Florida and therefore the total avoided disaster losses are much greater. If the data underlying the impact estimates is scaled to account for the total level of investment in hurricane resilience across all PACE providers — approximately $668 million — then the total lifetime avoided disaster losses reach over $1.2 billion, plus $310 million in avoided relocation costs.

Table 10. Summary of Ygrene PACE Financing Impacts in Florida (Base Case)

Type of Impacts	GDP Impacts[a] (million 2015$)	Employment Impacts[b] (person-year jobs)	Energy, Water, and Environmental Impacts
Direct Benefits Stemming from:			
Electricity Consumption Reductions (million MWh)	(10.83)[c]	34[d]	0.463
Natural Gas Consumption Reductions (million cf)	(1.21)[c]	15[d]	0.28
Non-Market Electricity Production (million 2015$)	4.01[e]	n/a[f]	n/a
Greenhouse Gas Reductions (metric MtCO2e)	12.51[g]	n/a	0.263
Avoided Disaster Losses (property damage)[h]	[507.76][i]	n/a[j]	n/a
Avoided Disaster Losses (relocation costs)	134.94[k]	n/a[j]	n/a

22 See: http://www.schwarzeneggerinstitute.com/images/files/SI_White_Paper%20PACE_Economic_Impacts_FINAL_3_6_19.pdf

The same USC research study above also shows similar results for seismic hardening efforts in California. Based on the $1.45 million investment in seismic retrofits and new home seismic improvements in California, the estimated return on investment resulted in $2.36 million of avoided property damage and $380,000 thousand in avoided temporary relocation costs of homeowners.[23] Thus, it follows that homeowners who use PACE financing to make seismic upgrades not only reduce the risk of catastrophic damage to their properties, but also reduce the likelihood of potential losses to the Enterprises. In this regard, PACE financed investments in resilience-related upgrades offer a true win-win for homeowners, mortgage-lenders, insurers, and the Enterprises as a whole.

On top of these benefits, the researchers also found that home resilience improvements financed by PACE reduce the need for homeowners to dip into their savings to repair unexpected property damages, or to cover temporary relocation costs following a natural disaster. Many popular home resilience upgrades, such as hurricane impact windows and doors, led to lower home insurance premiums. Based on an analysis of 14,350 residential projects and 23 commercial projects in Florida that implemented hurricane-related improvements, the USC study estimated the total savings on insurance premiums to be approximately $708 million. These ongoing insurance-related savings provide homeowners with greater disposable income to repay their mortgages on time and serve to further reduce risk to the Enterprises.[24]

A new January 2020 study by University of South Florida reaffirms these major findings. Like the USC study, these researchers from the Patel College of Global Sustainability also quantified the extent to which homeowners have benefited from PACE-financed improvements in storm-hardening.[25] They found the benefit to cost ratio to be roughly 2.3 to 1 (BCR) for PACE-financed home improvements related to hurricane protection; meaning, every dollar ($1) of PACE-financed investments in hurricane protection (e.g. impact windows) led to a reduction of roughly $2.33 in avoided disaster loss and displacement costs in the event of a hurricane.[26] For the FHFA, the significance of this BCR finding should be clear: it demonstrates how residential PACE measurably *lowers* the material financial risk to the Enterprises by making the underlying assets — i.e. homes and mortgages — more valuable and resilient.

Another promising finding from this January 2020 University of South Florida report is that homeowners with PACE are expected to save over $1.2 billion in home insurance premiums over the lifetime of their improvements (see graph on the next page).[27] Once again, this impact figure is undoubtedly an underestimate, since the report calculated the expected savings on lifetime insurance premiums based on project data from only one PACE provider in Florida. Nevertheless, the USF summary chart (see graph on the next page) usefully distills the estimated impact on three key financial metrics since the inception of the PACE program in Florida.

23 See: http://www.schwarzeneggerinstitute.com/images/files/SI_White_Paper%20PACE_Economic_Impacts_FINAL_3_6_19.pdf
24 See: Ibid
25 See: https://www.usf.edu/pcgs/documents/pace-report-final.pdf (Pg. 8)
26 See: https://www.usf.edu/pcgs/documents/pace-report-final.pdf (Pg. 10)
27 See: https://www.usf.edu/pcgs/documents/pace-report-final.pdf

SCALED HURRICANE RESILIENCY IMPACTS IN FLORIDA

The overall hurricane protection PACE BCRs were applied to the improvement level investment amount in the hurricane protection improvement category as well as the adjusted county level insurance savings factors by hurricane protection project. The results of that scaling are shown below in Table 3. Florida state statute mandates insurance companies to offer premium discounts to policy holders who implement home improvements that reduce disaster risk. Insurance premium savings are estimated to increase by 77% during the past 16 months and Disaster Loss Avoidance and Disaster Displacement Cost Avoidance of 90% and 91% respectively. This demonstrates how PACE financing can play a significant role in hurricane mitigation.

Table 3 **–SCALED INSURANCE AND HAZARD LOSS AVOIDANCE DATA – RESULTS** (IN MILLIONS OF DOLLARS ROUNDED)

Improvement Type	Scaling Factor per Dollar PACE Investment	2013 - July 2018 (Ref. 1)	August 2018 - November 2019	Total Since Inception
Lifetime Insurance Premium Savings	NA	$710	$550	$1,260
Disaster Loss Avoidance	1.84	$510	$460	$970
Disaster Displacement Cost Avoidance	0.49	$130	$120	$250

This new research conducted by the University of South Florida is particularly timely, given the Sunshine State's geographical vulnerability to climate change and powerful storm systems, as detailed in the 2018 United Nations Intergovernmental Panel on Climate Change (IPCC) Special Report.[28] Looking ahead, the increased probability of natural disasters and extreme weather events shine a light on the unique benefits of PACE, as a safe and affordable financing solution for homeowners to upgrade and better protect their properties. As state and local policymakers in Florida seek to incentivize greater home resilience and preparedness investments to combat these environmental changes, PACE has proven to be a significant asset in these efforts that benefit homeowners, mortgage lenders, and mortgage-insurers.

E. Conclusion

The real-world case studies in California and Florida, two of the country's largest housing markets, together illustrate an indisputable fact: PACE *materially reduces* — *not increases* — *the net financial risk to the Enterprises* to the benefit of homeowners and federal taxpayers alike. As already explained, residential PACE has greatly expanded in California over the last decade and yet there have been a total of *zero claims made by mortgage-lenders for losses sustained* due to foreclosure on properties with a PACE lien attached. At the same time, the value of these homes and underlying mortgages have only increased as a direct result of their PACE-financed improvements in residential solar PV systems and other valuable clean energy investments.

In Florida, the growing use and popularity of PACE has played an impactful role in building much-needed resiliency throughout the state, particularly in the South Florida region. By empowering homeowners to make their properties more robust against powerful storm systems, PACE-financed improvements have also yielded substantial financial benefits to the Enterprises and mortgage lenders in the form of avoided property damages and displacement costs. Leading research studies, as referenced above, show that PACE measurably reduced the risk of losses to the Enterprises by over $1.2 billion in

[28] See: https://www.ipcc.ch/sr15/

estimated savings. As a result of this reduced risk, many Florida homeowners with PACE assessments have seen their property insurance premiums decrease. While home insurance underwriters have rightly adjusted their rates and rewarded homeowners with PACE accordingly, the FHFA should take note of these actions since ultimately these investments also reduce the financial risk of the Enterprises.

Without any compelling evidence to refute these real-world outcomes in California and Florida, it would be arbitrary and capricious for the FHFA to somehow conclude on a theoretical basis that PACE materially increases risk to the Enterprises. To date, the FHFA has offered no empirical data to support the claim that PACE assessments decrease the value of mortgages or increase the financial risks to the Enterprises. Thus, there is no justifiable reason to adopt sweeping new rule changes to that effect.

Section II.

PACE-financed home improvements *measurably increase the value of homes and often reduce homeowners' energy costs and home insurance premiums*. These factors make homeowners with PACE assessments more likely to benefit financially and fulfill their mortgage obligations.

A. Increased Home Values with PACE and Improved Equity Position of the Enterprises.

Throughout the RFI, it appears the FHFA is concerned that the added value of PACE-financed home improvements is generally lower than the total costs, or otherwise that PACE assessments may increase the likelihood of property foreclosure and reduce the value of GSE-backed mortgages.[29] These concerns are demonstrably false and contradicted by all available evidence.

Several empirical research studies have found that PACE-financed home improvements *increase* the value of homes, even after accounting for the cost of these improvements. For example, a 2016 Journal of Structured Finance ("JSF") study showed that property improvement projects funded by PACE generally increase the sale value of properties.[30] Using three different house price indices (including the FHFA's state and division level indices), the JSF analysis showed a positive PACE premium at resale value ranging from $199 to $8,882 depending on the index.[31] The costs of PACE-financed improvements were also at least 100% recovered at resale — a win for homeowners and mortgage-lenders concerned about the residual value of such investments.

To measure the impact of foreclosure, the JSF study also sought to explore whether homes with PACE financing (e.g. PACE assessments that attached as liens to properties) would provide collateral for GSE first lien recoveries as strong as collateral on properties without PACE improvements. The methodology involved testing whether PACE improvements increase sale value for homes purchased out of foreclosure by pooling mortgage loans with PACE liens and a matched sample of mortgage loans without PACE. As expected, the analysis found that properties purchased from foreclosure sold at a discount of $33,435

[29] See: https://www.federalregister.gov/documents/2020/01/16/2020-00655/property-assessed-clean-energy-pace-program
[30] See: https://jsf.pm-research.com/content/21/4/6
[31] See: https://cdn.renovateamerica.com/newsarticles/Presentation+Deck.pdf

compared to normal, non-foreclosure sales. However, the added premium for PACE properties purchased out of foreclosure compared to similar non-PACE homes was $6,824[32].

In both instances these "PACE premiums" most likely underestimate the true value of PACE-financed improvements upon resale. That's because homeowners often decide to make upgrades to their home when the original equipment breaks, whether that be an HVAC cooling system or a new roof. What most analyses fail to properly capture is the counterfactual: what the value of a property would have been if these PACE-financed improvements had never occurred. It stands to reason that a home with either a broken or defunct cooling system, for instance, would in all likelihood be valued less by prospective buyers than a home with a new roof or efficient HVAC system. The salient point is that PACE-financed investments therefore not only add measurable value to homes and immediate benefits to homeowners, but also likely prevent a decrease in the prospective value of such properties.

The main findings from the JSF study are also consistent with a 2018 Lawrence Berkeley National Laboratory study, which examined the sales of 2,000 homes across California with PV installations against a comparable set of 70,000 homes without PV systems.[33] Among other encouraging takeaways, the study found that there was a net positive average sales premium for homes with PV systems that on average exceeded $15,000. This is a relevant finding since many homeowners use PACE to finance their residential solar systems with the understanding that such investments pay off in the long-run after taking into account reduced ongoing electric utility costs and higher home resale values.

According to the California Energy Commission, a 2011 study published in the *Appraisal Journal* also found that a *"$1 reduction in annual energy bills resulted in more than [a] $10 increase in resale value"*.[34] This extra "energy-efficiency premium" homebuyers today place on energy-efficient homes is well-founded since energy bills represent, on average, the second largest monthly home ownership expense after mortgage payments. Since many homeowners use PACE financing to add residential solar PV systems, along with many other energy-efficient upgrades, this study suggests that these upgrades will yield lasting home value in the upgraded properties in the eyes of prospective buyers.

The real estate market has also evolved over the last decade to enable appraisers to more accurately account for the positive home value impact of clean energy improvements. For example, the 2010 National Association of Realtors launched a Green MLS Toolkit, as part of an evolving effort to better appraise and reward homeowners who invest in sustainable upgrades for their properties. The FHFA's concern that PACE-financed upgrades do not lead to recognized higher home values by appraisers or prospective buyers is therefore contradicted by standardized industry practices and consumer trends.

A. Lower Energy Bills with PACE

Another concern expressed in the RFI is whether PACE-funded improvements tend to reduce the monthly expenses of homeowners. As mentioned, this is a particularly worthy question because energy costs represent the second largest expense to homeowners after mortgage payments. A 2011 report by Capital-

[32] See: https://cdn.renovateamerica.com/newsarticles/Presentation+Deck.pdf (Pg. 14)
[33] See: https://emp.lbl.gov/publications/assessing-pace-california-residential
[34] See: https://ww2.energy.ca.gov/2009publications/CEC-400-2009-008/CEC-400-2009-008-BR-REV1.PDF

E, American Council for an Energy Efficient Economy, Appraisal Institute, Citigroup, JP Morgan Chase, and others sought to explore this policy question. In its overarching conclusions, the study found that *"energy efficiency measures typically enhance a borrower's ability to pay since the monthly energy bill reductions typically exceed the additional monthly payments associated with the energy improvements"*.[35] Along the same lines, a March 2013 study by the Institute for Market Transformation ("IMT") and the University of North Carolina ("UNC") also found that mortgage default risks are, on average, 32% lower in energy-efficient homes, controlling for other loan determinants.[36] The researchers contend that energy efficient homes should have lower default risks than standard homes because the former are associated with lower energy costs, freeing up more money to make mortgage payments.

B. Conclusion

As detailed above, there is no available evidence in the public record that indicates PACE assessments decrease the value of homes. On the contrary, all evidence available suggests that PACE-financed improvements increase the value of homes and, in turn, the overall value of the Enterprises' portfolio to the benefit of federal taxpayers. This positive "PACE premium" also underestimates the true value added since homeowners often use PACE financing to replace old or broken home equipment (e.g. HVAC systems) or structural elements (e.g. roofs). Logically, the value of such properties would have been lower if the PACE-financed improvements had never occurred. This potential "avoided loss" or reduction in prospective value by future buyers is often overlooked.

Moreover, as discussed above, homeowners also benefit from reduced utility costs as a direct result of their PACE-financed home improvements. These ongoing monthly savings on utility bills, such as electricity or water, add up and translate into extra disposable income that make on-time mortgage repayment more likely. There are also further realizable savings, in the form of reduced property insurance premiums, for homeowners who use PACE to make resilience-related upgrades to their properties. This added-benefit is especially apparent in vulnerable geographic regions, like South Atlantic and Gulf Coast states (e.g. South Florida), where climate change and powerful storm systems continue to pose significant financial risks to both homeowners and mortgage insurers. In sum, these various forms of ongoing and supplemental savings strengthen the financial health of homeowners over the long-run.

Section III.

Federal action or policy changes to potentially limit access to mortgages in states, cities, and counties that offer PACE would *infringe on the rights of state and local governments* to help their constituents make critical energy-efficiency, natural disaster, drought, and climate resiliency improvements using their local property taxation and assessment powers.

Many of the potential policy changes under consideration in this RFI would actively penalize, or otherwise infringe, on the ability of states and communities to offer PACE to their constituents. As the FHFA evaluates the public comments and considers taking next steps, it's important that the rights and priorities of states and local governments are respected and not undermined.

35 See: https://cc34a825-8990-4d4a-b7e9-8c6dedefb34e.filesusr.com/ugd/e3370e_3d538b091de94e6da56af8fb5de49c26.pdf
36 See: https://www.imt.org/wp-content/uploads/2018/02/IMT_UNC_HomeEEMortgageRisksfinal.pdf (Pg. 1)

A. PACE financing is not a "Loan". PACE is a local government property tax-based financing option for public purpose improvements.

As a special property tax assessment, the very nature of PACE is fundamentally a state and local government tax collections mechanism. It is similar in form and substance to all other special property tax assessments placed on a property by a city, county, or other state governmental body. The local government entity or joint powers authority thereof provides homeowners with capital for weather, natural disaster, drought and/or climate resiliency measures. The homeowner enters into a voluntary assessment on their property in exchange for this improvement. The assessment is secured via a lien, as is the case with all other local government property tax assessments. Like with other forms of municipal finance, capital is provided by third-party bondholders.

For centuries, local governments around the country have financed public improvements using the property tax assessment mechanism. The types of home improvements that may be financed via a tax assessment is a matter of state law. Originally, such structures were used to finance public improvements including sidewalks, local parks, or sewers. There are also historic and current examples of the use of such structures to finance improvements or services with benefits provided to individual residential properties, such as voluntary, opt-in sidewalk repair districts, private security services, and assessment-based financing for geologic hazard abatement improvements to private property.

The FHFA misidentifies the nature of PACE on several occasions throughout its RFI, referring to PACE assessments as "loans". This is incorrect. PACE is a special tax assessment – not a loan. As such, it is an *in rem* obligation that attaches to the property. PACE's assessment-based structure also reflects the key role state and local governments play in its formation, and that structure is essential to the ability of PACE programs to offer better pricing to homeowners compared to many traditional sources of home improvement capital.

A. The FHFA should not undermine or infringe upon state and local government rights.

As a starting point, the FHFA does not raise objections to school district taxes, water district taxes, fire district taxes, or even other property tax assessments for improvements to private property, such as septic tank repairs or sewer laterals. These special assessments do not pose any new or increased risks to the Enterprises and, by all accounts, tend to raise the value of homes in their respective communities. PACE functions in precisely the same way: it's an exercise of fundamental state and local government rights to carry out important public purposes, such as making homes safer, more efficient, and more resilient.

PACE should not be singled-out or treated any differently by the FHFA. Special property tax assessments, including PACE, are a proven public policy tool that has been around for centuries — indeed, long before mortgages — and are fully within the rights of homeowners and local governments to use as an effective way of improving their communities. The FHFA should not arbitrarily threaten to undermine these long-held state and local government rights.

The policy development of PACE in California also reveals the ways in which states and local communities are in the best position to reduce any potential downside risks to their constituents in terms of ability to pay, property tax delinquencies, or mortgage defaults. Over the last several years, California has passed a number of state laws (e.g., AB 1284 (Dababneh, 2017), SB 242 (Skinner, 2017), AB 2963 (Dababneh, 2016)) which strengthened the consumer protections with residential PACE to address a limited number of problem cases. Examples of such consumer protections include easy-to-understand consumer disclosures, cancellation rights, contractor training and marketing methods, and affordability and underwriting requirements. Meanwhile, the residential PACE industry has simultaneously matured over the last decade and adopted a number of voluntary best practices, such as no prepayment penalties or PACE assessments on properties with reverse mortgages. These new safeguards altogether have further reduced the risk that homeowners with PACE might encounter difficulties in repaying their assessments, or otherwise put their property taxes in arrears.

Another valuable takeaway from the development of PACE oversight and regulations in California is that consumer protections are often best implemented at the state and local levels to address specific issues arising in individual jurisdictions. These state and local representatives are democratically accountable to their constituents and are more likely to have the local knowledge needed to develop targeted policy solutions that work for their communities. The California Legislature also designated the Department of Business Oversight as the state agency with day-to-day regulatory oversight duties over R-PACE. From the standpoint of the FHFA, these actions taken at the state level not only advance the financial interest of homeowners but also reduce the possibility that PACE could add financial risk to the Enterprises.

In the RFI, it was particularly concerning that the FHFA might contemplate targeting specific states or local communities that offer residential PACE.[37] Under its policy changes under consideration, the RFI raises the possibility of making underwriting criteria more stringent for *all* borrowers in state or local government jurisdictions that offer PACE. If carried out, this threat would be akin to penalizing entire states or local government constituents and making it more difficult for prospective homebuyers to qualify for mortgages. Because of its wide jurisdictional reach, such extreme policy changes by the FHFA or the Enterprises could also open the door to countless unintended consequences.

For example, a move by FHFA to decrease loan-to-value (LTV) ratios for all new loan purchases in states or local communities where PACE is merely available would likely have a sizable dampening economic impact. This could materialize in the form of depressed mortgage originations or reduced construction activity in the country's major housing markets. As the empirical evidence above makes clear, such overly prescriptive regulatory action by FHFA is not needed and lacks a firm basis. As the experience in California shows, there are no mortgage lenders who have claimed losses due to PACE assessments. FHFA should thus proceed with extreme caution and respect state and local government rights.

Section IV.

A. FHFA Policy Considerations

[37] See: https://www.federalregister.gov/documents/2020/01/16/2020-00655/property-assessed-clean-energy-pace-program

In light of all of the evidence from the actual implementation of residential PACE programs over the past decade and other data and arguments provided in Sections I through III above, we briefly summarize our response to the FHFA's posed questions in Section D of the RFI as follows:

1. FHFA *should not* direct the Enterprises to decrease loan-to-value ratios for all new loan purchases in states or in communities where PACE loans are available.

2. FHFA *should not* direct the Enterprises to increase their Loan Level Price Adjustments (LLPAs) or require other credit enhancements for mortgage loans or re-financings in com-munities with available PACE financing.

3. FHFA *should not* consider other actions regarding Enterprise purchase or servicing requirements in jurisdictions with PACE programs. Current protections are sufficient, as evidenced by lack of any documented harm to GSEs.

4. FHFA *should not* establish safety and soundness standards for the Federal Home Loan Banks to accept as eligible advance collateral mortgage loans in communities where PACE loans are available.

5. *None* of the actions outlined in Questions 1 through 4 of the RFI are warranted in light of empirical evidence and public data available.

6. With respect to questions 5 and 6, we note that some R-PACE providers in California are already collaborating to create a real-time database that may help alleviate some of the concerns FHFA has highlighted. More generally, the entire industry is united and committed to finding a real-time data solution to address this issue and better track the current status of PACE assessments.

7. With respect to question 7, California law already requires all applicants for PACE financing to acknowledge and initial the following statement: *"I understand that I may be required to pay off the remaining balance of this obligation by the mortgage lender refinancing my home. If I sell my home, the buyer or their mortgage lender may require me to pay off the balance of this obligation as a condition of sale".*[38] This disclosure and acknowledgment must be made before the homeowner enters into an assessment contract. In addition, before a homeowner executes an assessment contract, California law requires PACE program administrators to conduct a live, recorded phone call with the homeowner informing the homeowner that *"the property will be subject to a lien during the term of the assessment contract and that the obligations under the assessment contract may be required to be paid in full before the property owner sells or refinances the property".*[39] The statute also has numerous additional consumer disclosures made in writing and orally, and requires that the disclosures be made in the customer's chosen language or with the assistance of an interpreter.[40]

[38] See: Cal. Streets & Highways Code §5898.17(b).
[39] See: Cal. Streets & Highways Code §5913(a)(2)(I).
[40] See: Cal. Streets & Highways Code §5913.

8. Question 8 is well beyond the authority of the FHFA to address the safety and soundness concerns of the Enterprises under its conservatorship duties. As acknowledged, the Consumer Financial Protection Bureau's rulemaking process pursuant to Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155) is well underway, and questions relating to the ability of consumers to pay for PACE assessments and how to address the "unique nature" of PACE are being addressed by that agency. The other questions posed by FHFA within question 8 are within the jurisdictions of state and local governments that have established and are implementing PACE authority. As described above, California has designated its Department of Business Oversight as the primary agency with responsibility to regulate PACE program administrators and solicitors, and the regulatory framework is extensive. The California DBO has proposed regulations and has provided the public with opportunities to comment thereon. These questions are beyond the scope of FHFA's jurisdiction.

9. Question 9 is similarly beyond the scope of FHFA's authority. On account of the considerable evidence based on the actual implementation of PACE in two of the largest U.S. states over the past 8 years, our response to these questions is *"no"*.

Section V. Conclusion

As this response outlines in detail above, the FHFA should not take action or make policy changes to its regulated Enterprises regarding residential PACE for the following three reasons:

1. *PACE does not materially increase financial risk to the Enterprises*. On the contrary, all available evidence suggests precisely the opposite is true: PACE lowers the financial risk to the Enterprises and, in turn, yields net positive financial benefits to both homeowners and federal taxpayers.
2. PACE financed home improvements *measurably increase the value of homes and often reduce homeowners' energy costs and home insurance premiums*. These factors make homeowners with PACE assessments more likely to benefit financially and fulfill their mortgage obligations.
3. Federal action or policy changes to potentially limit access to mortgages in communities that offer PACE would *infringe on the well-established rights of state and local governments* to finance public purpose improvements using special property tax assessments.

For these reasons, it's essential for the FHFA to carefully balance any of the expected benefits of federal action or policy changes regarding residential PACE against the potential downside economic effects on the country's major housing and mortgage industries. Ironically, many of the policy changes under consideration in the RFI — e.g. decreasing loan to value (LTV) ratios in all states and communities that make PACE financing available — could increase the underlying material financial risk to the Enterprises to a far more significant degree than any supposed threat posed by PACE assessments. Federal policy changes along these lines would thus be counter-productive and self-defeating.

Without even a single mortgage lender in California having made a reimbursement claim on a property with a PACE lien in foreclosure, it's unclear on what factual grounds FHFA is basing its expressed concern of "material financial risk". State lawmakers in California created the PACE Loss Reserve

Program out of abundance of caution to guard against this remote possibility. The results over the last decade clearly indicate that it was not needed as an extra mortgage insurance safeguard, given that the realized risk of PACE to mortgage holders and the Enterprises has never in fact materialized.

The more recent case study in Florida demonstrates how residential PACE-financed improvements in resilience-building serve to reduce the risk of major property damage and, by extension, better protect the value of the underlying assets of the Enterprises. Because of these PACE-financed improvements in projects ranging from hurricane impact windows and doors to replacement roofs, several studies estimate the avoided property damage to be north of $1.2 billion. As such, the FHFA should take note of how PACE improvements often serve to improve the hurricane safety and robustness of homes, particularly in vulnerable regions like South Florida. These critical investments ultimately lower risks to the Enterprises.

Given the full body of evidence presented, *we strongly urge the FHFA to not pursue the proposed actions in this RFI*, which lack a rigorous empirical basis and could lead to significant economic consequences. Going forward, we remain fully committed to working with the FHFA to evaluate any analyses or policy questions under consideration, and to offer feedback from industry professionals as appropriate.

Respectfully,

Olivia White, Vice President of Government Affairs
Renew Financial Group, LLC

Robert Giles, CEO
PACE Funding Group, LLC

Chris Nard, CEO
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