

August 8, 2012  
By email

Mr. Alfred M. Pollard, General Counsel  
Federal Housing Finance Agency

Re: Comments / RIN 2590-AA53

Dear Mr. Pollard:

I am writing to comment on the proposed regulation that would forbid Fannie Mae and Freddie Mac (the "Enterprises") from purchasing mortgages subject to first liens that are subject to Property Assessed Clean Energy ("PACE") programs. The proposed regulation would also forbid the Enterprises from consenting to the imposition of first lien PACE obligations, and would force them to cause mortgages (presumably those they purchase or guarantee) to have provisions allowing the Enterprise to cause the obligation that the mortgage secures to be immediately due and payable if a first lien PACE obligation is imposed without the consent of the mortgage holder. This would effectively shut down most PACE programs because so many of the country's mortgages are held or guaranteed by the Enterprises.

The discussion in FHFA's preamble to the text of the proposed regulation does an excellent job of describing comments that were received as well as demonstrating that there can be no certainty that energy improvements will in general or in any particular case have a value that equals or exceeds the amount of the first lien that the applicable PACE program puts on the property. That fact alone should not cause FHFA to stop the PACE programs for the following reason.

As noted above, and as FHFA knows better than I, the Enterprises are involved as purchasers or guarantors of a very significant share of mortgages in the U.S. Consequently, actions they take can make or break PACE programs that individual states or individual localities set up. It is not the proper business of FHFA to either promote energy conservation programs or to shut them down. Its job is to make sure, among other things, that the mortgages that Fannie Mae buys or guarantees are adequately secured. That can be accomplished without, in effect, forbidding the PACE programs (as one simple example of a way to protect the Enterprises, even assuming that PACE programs do not increase the value of the home by the amount of the PACE obligation, the loan to value ratio of mortgages that may be subject to a PACE obligation could be slightly decreased from the LTV of mortgages that will not be subject to a PACE obligation). One of the things that makes the U.S. great is its private enterprise system. Another is the freedom the states and localities have to experiment. FHFA has no business shutting down state and local experiments if it can adequately protect Fannie Mae and Freddie Mac in another manner.

The second risk mitigation alternative would be a proper way to get FHFA out of the business of either encouraging or discouraging local initiatives. The discussion indicates that FHFA is concerned that it would mitigate but not eliminate financial risks to the Enterprises. True, there could be slightly greater (or slightly less) risk to the Enterprises from any program that both

reduces energy costs to a home owner and imposes a first lien, but perfect certainty is generally not possible in this world, and should not be the criterion that FHFA operates under.

Sincerely,

A handwritten signature in black ink, appearing to read "Micah Bloomfield". The signature is fluid and cursive, with the first name being the most prominent.

Micah Bloomfield  
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