

From: Marriele Robinson <marriele@lipc.org>  
Sent: Tuesday, September 11, 2012 4:14 PM  
To: !FHFA REG-COMMENTS  
Subject: RIN 2590-AA53

September 11, 2012

Mr. Alfred Pollard, General Counsel  
Attn: Comments/RIN 2590-AA53  
Federal Housing Finance Agency, Eighth Floor  
400 Seventh Street, SW.  
Washington, DC 20024

Dear Mr. Pollard:

We write to express our objection to the premise of the Notice of Proposed Rule (NPR) that Property Assessed Clean Energy (PACE) programs materially increase financial risks to Fannie Mae and Freddie Mac (the Enterprises), and to the Proposed Rule, which continues to block PACE. The Federal Housing Finance Agency (FHFA) must issue a final rule based on facts, not assertions, and consider the environmental impacts of its actions and substantial public interest in PACE. As set out below, we propose an alternative that is consistent with the evidence and would allow PACE to proceed.

More than 30,000 comment letters in response to FHFA's Advance Notice of Proposed Rulemaking (ANPR) supporting PACE were submitted by state and local governments, federal and state elected officials, banks, real estate developers, energy companies, and organizations representing millions of Americans. Those comments cited numerous studies, articles, legal decisions and other sources providing evidence that PACE increases the value of homes, reduces homeowners' energy costs (thereby making mortgage repayment more likely), grows jobs and economic activity, and helps local governments meet greenhouse gas reduction and clean energy goals. FHFA must not ignore the substantial weight of the evidence in the record establishing that PACE does not pose material risks to the Enterprises.

FHFA's Proposed Rule is even more draconian and harmful to local government PACE programs than the proposed action cited in the ANPR. In addition to prohibiting the Enterprises from buying mortgages on properties with PACE liens, it allows the Enterprises to make mortgages on such properties immediately due, and would prohibit the Enterprises from consenting to PACE obligations under any conditions. FHFA's Proposed Rule challenges the well-established authority of local governments to finance improvements with a valid public purpose through assessments, and imperils an extremely effective means of creating jobs, ensuring energy security and protecting public health and the environment.

FHFA should adopt a modified version of its Alternative 3 to the Proposed Rule (H.R. 2599 Underwriting Standards). Alternative 3 provides rigorous underwriting criteria and other protections to reduce the risk of default, ensure that PACE-financed improvements add to the value of homes and sufficiently protect the Enterprises from risk perceived by FHFA. As drafted in the NPR, Alternative 3 is not fully workable,

because it still requires Enterprise consent to local government assessments for valid public purposes, and does not ensure that the Enterprises will indeed consent even if local governments comply with these rigorous underwriting standards. FHFA should therefore adopt a modified version of Alternative 3 as follows:

So long as all PACE liens are recorded and the Alternative 3 underwriting standards are satisfied, then the Enterprises shall:

1. not take actions to make immediately due the full amount of any obligation secured by a mortgage that becomes subject to a first-lien PACE obligation;
2. be permitted to purchase mortgages subject to first-lien PACE obligations; and
3. if requested, consent to the imposition of a first-lien PACE obligation.

This variation on Alternative 3 provides a solution that is supported by the evidence, can be implemented by local governments right away and will allow PACE programs to move forward.

We also urge the FHFA, in its final rule adopting this modified version of Alternative 3, to leave open the future opportunity to address its concerns through implementation of elements of its proposed Alternative 1 (Guarantee/Insurance). At this time, there is no insurance product in the marketplace or an established reserve fund that protects against “100% of any net loss” as suggested by FHFA, but some form of insurance or loan loss reserve could provide additional risk mitigation in the future. If an insurance product or reserve fund that provides sufficient protection against the risk to the Enterprises perceived by FHFA becomes available, local governments should be permitted to choose whether to utilize such products or comply with the Alternative 3 standards.

We welcome the opportunity to work with FHFA to further refine this modified alternative to the Proposed Rule if necessary. FHFA should not close the door to residential PACE when a workable solution is either available now or can be resolved in a collaborative stakeholder process in a relatively short period of time.

In sum, FHFA should adopt Alternative 3 to the Proposed Rule (modified as proposed in these comments), and leave the door open to the future use of insurance or reserve funds that could provide sufficient risk mitigation. This solution enables FHFA to enhance the value of the Enterprises’ portfolio while respecting the rights of local governments to protect the public health and safety and allowing this extremely effective engine of job creation to move forward.

In addition to the aforementioned information, it is important to emphasize the impact PACE funding has had on the high need and working class communities of Long Island. Through the PACE funded Long Island Green Homes, homeowners that have otherwise been overlooked by the green energy movement are given a rare opportunity to improve their households comfort while simultaneously saving thousands every year. These communities share a common variable of larger-than-average household sizes, primarily because multiple generations occupy one home together, which ultimately results in higher energy costs. It is therefore no surprise when such households experience savings upwards of \$2500 a year after the improvements are completed (well above the statewide average). Utilizing these savings, homeowners can easily payback the remaining costs monthly. Furthermore, these households typically include the elderly and young children, demographics that are more susceptible to the health issues associated with poorly ventilated and drafty homes. Post improvements these homeowners provide the most compelling testimonial for the dramatic effect efficiency work can have not only on the comfort of the home and savings on energy bills, but in

the increased quality of life experienced by those living there. Had it not been for the Long Island Green Homes financing resulting from PACE, these homeowners would still be living in cold, drafty, money hemorrhaging homes. To continue this work, particularly in Long Islands most high need communities, continued PACE funding is most definitely a necessity.

Sincerely,

Marriele Robinson  
90 Pennsylvania Ave  
Massapequa, NY 11758