



**BILL LOCKYER**  
TREASURER  
STATE OF CALIFORNIA

September 11, 2012

Mr. Alfred M. Pollard, General Counsel  
Attention: Comments/RIN 2590-AA53  
Federal Housing Finance Authority, Eighth Floor  
400 Seventh St SW  
Washington D.C. 20024

RE: RIN 2590-AA53 Comments for FHFA Proposed Rulemaking regarding Property Assessed Clean Energy

Dear Mr. Pollard:

On June 15, 2012, the Federal Housing Finance Authority (FHFA) published a proposed rule and three risk-mitigation alternative rules relating to PACE financing programs. I am writing to urge the FHFA to adopt the Third Risk-Mitigation Alternative, which would establish protective underwriting standards and allow local governments to use their assessment powers to finance energy efficiency, water efficiency and renewable energy projects for homeowners. This alternative rule provides meaningful and substantive protections for FHFA, Fannie Mae and Freddie Mac (the Enterprises), and homeowners, while allowing communities and PACE participants to benefit from the availability of PACE financing.

The Third Risk-Mitigation Alternative, which would use the standards set forth in H.R. 2599, provides robust underwriting criteria. These underwriting standards address key concerns raised by FHFA in its proposed rule and previous actions. FHFA has questioned whether energy savings will cover the costs of the underlying assessment and FHFA worries that the cost of the assessment might increase a homeowner's likelihood of default, thus placing the Enterprises at risk. H.R. 2599 addresses this concern. Among the underwriting standards proposed in the legislation, there is a requirement that the PACE improvements be financed on terms such that the total energy and water cost savings are expected to exceed the total cost to the property owner of the PACE assessment. At a minimum, savings are expected to not only cover the costs of financing, but provide some additional savings, making the likelihood of default less, not more, likely. In some cases, savings could be even greater, further decreasing the likelihood of default.



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California law specifically encourages PACE financing through the use of credit enhancements to support local jurisdictions with existing PACE programs. Senate Bill 77, signed into law in April 2010, appropriates up to \$25 million to create a PACE Bond Reserve Program administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), a financing entity of the State Treasurer's Office. Senate Bill 77 requires CAEATFA to establish consumer protection measures and determine best practices for PACE underwriting criteria. As Chair of the CAEATFA Board, I am concerned that this program will not be utilized for its intended public purpose given the FHFA's action to essentially shut down the PACE financing in local jurisdictions in California and throughout the country.<sup>1</sup>

If FHFA were to adopt underwriting standards consistent with H.R. 2599, and allow residential PACE program administrators to continue to provide PACE assessments to interested homeowners, CAEATFA would be able to dedicate resources to develop and administer a PACE Bond Reserve Program – which is intended to support local government programs such as the Sonoma County Energy Independence Program still active in California. If residential PACE programs are not revived and continued to be made available as a financing option for consumers, it will be difficult to ever effectively evaluate and mitigate the types of perceived risks associated with PACE assessments. Allowing residential PACE programs to exist would provide the type of performance data necessary for states and local communities to evaluate the effectiveness of this financing option and compared to other options currently available in the marketplace. Simply stated, local communities need PACE programs to be able to better assess homeowner's demand for this product and evaluate the types of risks associated with this financing option, if any.

H.R. 2599 provides additional underwriting standards that CAEATFA anticipates adopting as best practices in its PACE Bond Reserve Program. These standards include requirements that the owner must have equity in the property of at least 15 percent of the estimated value of the property, that a certified building analyst performs an energy audit to identify recommended improvements, useful life, benefit-cost ratio, and provide the estimated overall difference in annual energy costs with and without the recommended improvements. These and other underwriting criteria set forth in H.R. 2599 are more stringent and would place additional requirements on active and proposed programs and protect the Enterprises by further reducing risk. Furthermore, the use of these underwriting criteria could result in greater standardization of PACE assessments, and promote capital market investment in future bond offerings backed by these assessments, which in turn could lower the overall cost to homeowners going forward.

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<sup>1</sup> As stated in the SB 77 statute, CAEATFA is authorized to develop and administer a PACE Bond Reserve Program with the intent to reduce overall costs to the property owners of PACE bonds issued by a local jurisdiction by providing a reserve of no more than 10 percent of the initial principal amount of the PACE bond. It is important to clarify the PACE Bond Reserve Program, if developed, would be designed to reduce risk to bondholders, not mortgage holders. Thus, this is not the type of reserve fund discussed in Alternative 1 being considered by FHFA.

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And finally, I suggest that FHFA carefully consider not only the risks of PACE programs but also the benefits to the larger public interest that PACE programs serve. The public interest is advanced by allowing PACE programs to proceed in order to obtain the benefits of energy efficiency, consumer savings, pollution reduction and job creation.

California is moving on many fronts to address global climate change by limiting greenhouse gas emissions and encouraging energy conservation and the use of renewable energy generation. Under current state law, by 2020, California is required to reduce the levels of greenhouse gas emissions to 1990 levels and produce 33 percent of its retail electricity from renewable energy. Regulation also requires a 20 percent reduction in energy consumption in existing homes by 2015, a 40 percent reduction by 2020, and that new homes achieve zero net energy by 2020. These targets will require innovation and concerted effort in the fields of energy production and construction, as well as the retrofitting of millions of homes across the state in order to meet the state's energy policy goals.

A 2011 report commissioned by the California Public Utilities Commission identified that approximately 5.8 million single-family homes in California are good candidates for substantial energy efficiency upgrades. In order to reach California's energy goals, pioneering energy efficiency financing tools will play a key role. To reach enough homeowners, it is essential that financing programs be simple and cost-effective. PACE is an important tool for California to meet its goals.

I respectfully request that you move forward with the Third Risk-Mitigation Alternative with all due haste so that state and local communities can benefit from the availability of PACE financing.

Sincerely,



BILL LOCKYER  
California State Treasurer

cc: Members of the California Congressional Delegation  
Edmund G. Brown Jr., Governor, State of California  
Mr. Edward DeMarco, Acting Director, Federal Housing Finance Agency  
Dr. Steven Chu, Secretary, U.S. Department of Energy  
Shaun Donovan, Secretary, U.S. Department of Housing and Urban Development  
Timothy Geithner, Secretary, U.S. Department of the Treasury  
Nancy Sutley, Chair, Council on Environmental Quality  
Michael J. Williams, President and Chief Executive Officer, Fannie Mae  
Charles E. Haldeman Jr., Chief Executive Officer, Freddie Mac  
Members of the California Alternative Energy and Advanced Transportation Financing Authority