From: Ken Barnes <kenptr@gmail.com>
Sent: Wednesday, September 12, 2012 9:19 PM
To: !FHFA REG-COMMENTS
Subject: Comments in Response to FHFA PACE NPR “RIN 2590-AA53”

September 12, 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:

I urge the FHFA to adopt a future-flexible rule that allows residential PACE programs to proceed unhindered, by not prohibiting mortgages and not requiring immediate repayment of mortgages solely because the properties have PACE assessments. Such a rule, with a variation of the First Risk-Mitigation Alternative, can be implemented that will provide the Enterprises with the following benefits:

a) Eliminates practically all of the Enterprises risk from PACE

b) Provides potential for net gains due to heightened market values of foreclosed PACE properties

c) Doesn't require qualifying new insurance products or the need for new actuarial history

This approach can enable PACE programs, and allow PACE programs or local governments to guarantee payment of PACE assessments due, or value lost, in event of foreclosure. The First Risk-Mitigation Alternative would be used, with proposed revisions as follows:

Revision 1: If the provisions of paragraph c are satisfied, the Enterprises shall NOT make immediately due the full amount of any obligation secured by a mortgage solely because it becomes, with OR WITHOUT the consent of the mortgage holder, subject to a first-lien PACE obligation.

Revision 2: If the provisions of paragraph c are satisfied, the Enterprises should be willing to purchase any otherwise qualifying mortgage that is subject to a first-lien PACE obligation.

Revision 3: Paragraph c single replacement sub-paragraph for sub-paragraphs i & iii:
The PACE program itself, or a state or local government, provides an irrevocable guarantee to repay the greater of
(a) the amount of the outstanding PACE assessments prior to re-sale of the foreclosed or otherwise re-possessed collateral property, minus any net incremental value (which could be positive or negative) that the PACE-funded retrofits, given remaining assessments, contribute to the market value of the collateral property, as determined by a current qualified appraisal, or (b) zero.

Revision 4: The guaranteeing entity further backs its guarantee by maintaining a reserve fund equal to at least 1.5% of all unrepaid PACE funding within its jurisdiction.

It's essential that the following three observations be understood and generally accepted, prior to finalizing this rule:

1) Residential PACE assessments are unlikely to increase the risk of default or foreclosure.

2) It's likely that the average lender's exposure to PACE assessment in event of foreclosure, during the entire life of a new residential first mortgage on a PACE assessed property, will not be large. This is in the absence the FHFA suggested risk mitigation alternatives. Furthermore, this cost will most likely be offset, at least in part, by a higher market value with the PACE energy retrofits. On average, a new buyer will probably pay a higher purchase price for an energy efficient home, even though it has a higher property tax assessment.

3) If residential PACE moves forward, it can make a major reduction in the nation's total fossil energy use while generating many domestic and local jobs.

The following are supporting estimates (data sources: Home Energy Saver, Efficiency Vermont, ForTheBestRate, New York University, Mortgage Bankers Association, Solar Energy Industries Association, Lawrence Berkeley National Laboratory, US Department of Energy).

- A relatively worst-case added cost to the Enterprises per mortgage on a PACE residence: $2,262. (See below for details.)

- Reduction in total US primary energy consumption from unhindered residential PACE programs nationally: 7%. (See below for details.)

Detailed Estimates:

- Analysis of existing PACE programs has found that the mortgage default rate of homes with a PACE lien is 1/30th that of non?PACE homes.

- A study by the Lawrence Berkeley National Laboratory found that homes with solar systems installed sold for an average sales price premium of
$17,000 over homes without solar systems. If the initial cost of the solar system installation was covered by PACE assessment for all the homes in the Lawrence study, the current discounted present value cost of the PACE assessments would be about $17,000 per home. Thus, if the average home in the study were foreclosed, and the new buyer that took the home out of foreclosure fully recognized the higher property tax assessment from PACE, there would be zero home value loss to the mortgage lender that foreclosed on the property, due to PACE. Most likely, the new buyer would not fully recognize the added PACE property assessment, would have pride and value in owning an more energy efficient home, and would pay a higher price for the home - resulting in a gain for the foreclosing mortgage lender.

- It's estimated that the annual PACE assessment for a typical home that undergoes a full PACE retrofit some time in the next 5 years (including solar PV installation) will be $1,508.

- A very over-estimated, and thus for our purposes very conservative, estimate of the probability that a new residential first mortgage will be foreclosed sometime during its entire life, is 0.75 (75%). This is a very high, very conservative estimate, because it is based on today's still unusually high, almost ridiculously and certainly tragically high, statistic for the percentage of US residential loans on which foreclosure actions were started during the second quarter of 2012. This measure was 0.96 percent. A cumulative probabilistic analysis translates this measure to about a 75% chance of foreclosure over the entire life of the average loan.

- The average lender's exposure to PACE assessment in event of foreclosure, during the entire life of a new residential first mortgage on a PACE assessed property, is estimated to be 0.75 x 2 x $1,508 = $2,262. This is in the absence of any suggested risk mitigation alternatives. The values of 0.75 and $1,508 are from the preceding estimates. The factor of 2 reflects a conservative assumption that a foreclosed owner is already a year delinquent in paying property tax, prior to the time the foreclosed property enters REO status - and that the property is in REO status for one year - for a total of 2 years worth of assessments. $2,262 is something of a worst-case scenario, based on an extremely high 0.75 probability. A probability based on foreclosure rate experience at the end of 2001, well prior to the sub-prime crisis, is estimated to be 0.19. Thus, in a healthier mortgage environment the lender's exposure to PACE assessments would only be 0.19 x 2 x $1,508 = $573.

- For 2012, residential buildings' share of US primary energy consumption is estimated to be 22.5%.

- The estimated reduction in fossil fuel generated energy consumption for a typical US home, arising from installation of a full PACE retrofit (including installation of solar PV) us about 50%.

- Optimistic estimate of the percentage of all US homes that are relatively new and more energy efficient than a level of 40 on the US Department of Energy EnergySmart Home Scale: 15%.

- Estimated percentage of US homes needing energy retrofit, who's owners are likely to take advantage of a fully available PACE financing
program: 75%.

- Estimate of reduction in total US primary energy consumption (excluding on-site or near-site solar) from a fully available PACE financing program: 7%. This is calculated from the preceding estimates:
.225 x .5 x (1-.15) x .75 = 7.2%.

Sincerely,
Ken Barnes
Concerned Citizen and Energy Planner
Fremont, California