

September 13, 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:

As representatives of the real estate industry, we urge the Federal Housing Finance Agency to reverse its position in its Proposed Rule and restore Property Assessed Clean Energy (PACE) programs that help property owners make energy efficiency and renewable energy upgrades to their homes.

We strongly support innovative clean energy financing programs like PACE and the significant benefits they can bring to our states and communities nationwide. We're not alone in this support-- in response to FHFA's Advance Notice of Proposed Rulemaking (ANPR) more than 30,000 comment letters supporting PACE were submitted by real estate developers like us, state and local governments, federal and state elected officials, banks, energy companies, and a wide range of other stakeholders. Those comments cited numerous studies, articles, legal decisions and other sources providing evidence that PACE programs do in fact increase the value of homes, reduce homeowners' energy costs (thereby making mortgage repayment more likely), grow jobs and economic activity, and help 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 mortgage lenders.

Unfortunately, FHFA's Proposed Rule is even more harmful to PACE programs than the proposed action cited in the ANPR and would continue to block these programs from moving forward. We strongly urge FHFA to reconsider its Proposed Rule and to reinstate PACE programs.

We also urge the agency to move forward with adopting the underwriting standards outlined in H.R. 2599 by implementing a modified version of its Alternative 3 to the Proposed Rule. This alternative would provide rigorous underwriting criteria and other protections to reduce the risk of default, protect consumers against unwarranted improvements, ensure that PACE-financed improvements add to the value of homes and sufficiently protect the Enterprises from risk perceived by FHFA. FHFA should modify this alternative so that if PACE liens are recorded and the underwriting standards outlined in H.R. 2599 are met, the Enterprises should: 1) *not* take actions to call a default on any mortgage because the underlying property has become subject to a first-lien PACE obligation; 2) *be permitted* to purchase mortgages subject to first-lien PACE obligations, and be directed to treat PACE assessments in a similar manner as any other municipal tax assessment; 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.

FHFA should not close the door to residential PACE programs when a workable solution is either available now or can be resolved in a collaborative stakeholder process in a relatively short period of time. By adopting a modified Alternative 3 to the Proposed Rule and leaving the door open to the future use of insurance products or reserve funds that could provide sufficient risk mitigation, PACE programs can move forward in a manner that leaves homeowners better off than they were before and provides significant benefits to our communities by driving economic growth and jobs and helping homeowners have more control over their energy costs. Our companies and organizations, as well as hundreds of communities in the 27 states that have passed PACE-enabling legislation, are counting on your agency to adopt a final rule, based upon common sense and the overwhelming evidence on the record, which allows PACE programs to move forward immediately.

We appreciate the opportunity to submit these comments.

Sincerely,

*The following members of the Real Estate Network for Energy and Climate Policy:*

**Campbell Coyle Holdings, LLC**

Thomas F Darden

**Cherokee Investment Partners, LLC**

Pamela Lippe

Principal

**e4, inc.**

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**Earth Day Network**

Paul Logan  
National Director / Senior VP  
**Jones Lang LaSalle**

**MEI Hotels, Incorporated**

Brad A. Molotsky  
Executive Vice President and General Counsel,  
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**Brandywine Realty Trust**

**Jonathan F.P. Rose**

**Simon Properties**

**U.S. Equities Realty, LLC**

**USAA Real Estate Company**

**United States Green Building Council**

**Urban Green Council**