NCSHA
National Council *of*
State Housing Agencies

September 13, 2012

Mr. Alfred Pollard
Office of General Counsel
Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, DC 20024

RE: FR Doc No: 2012-14724

Dear Mr. Pollard:

On behalf of the state Housing Finance Agencies (HFAs) it represents, the National Council of State Housing Agencies (NCSHA) appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposed rule on underwriting standards relating to Property Assessment Clean Energy lending programs (PACE). We share FHFA's concerns about how PACE loan programs that place a primary lien on a property could increase the risk exposure on loans owned by investors and guaranteed by the Government-Sponsored Enterprises (GSE), Fannie Mae and Freddie Mac. We are also concerned that primary lien PACE loans could result in increased losses for the GSEs. We believe that FHFA should adopt its proposed rule and prohibit Fannie Mae and Freddie Mac from purchasing loans that are subject to a primary lien PACE loan and not allow any loans they own to be subject to such a lien.

HFAs are state-chartered housing agencies that operate in every state, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands. Though they vary widely in their characteristics, including their relationship to state government, HFAs share a common mission of supporting affordable housing lending help to those who need it.

State HFAs are most widely known for their safe and sound first-time homebuyer lending programs, which have provided a reliable source of affordable mortgage money for working families over many decades in strong and weak economies. Through a combination of low-cost financing, prudent underwriting, homebuyer counseling, down payment assistance, and proactive servicing, HFAs have established a long record of high homebuyer lending performance, noted for its low delinquency and default rates.

NCSHA supports efforts to promote energy efficiency and believes that initiatives designed to help homeowners make energy efficiency upgrades to their homes, when designed carefully, can play a critical role in such efforts. However, programs that establish PACE loans as primary liens increase risk for mortgage lenders, investors, and servicers and could disrupt the housing market.

As FHFA notes in the proposed rule, when investors lose their primary lien position on a mortgage, the value of their investment diminishes because, in the event of a default, the borrower's first obligation is to pay off the past due obligation on the primary lien, reducing the amount subordinate lien-holders receive. In addition, the obligation to pay off the remainder of the PACE assessment is transferred to the new owner of the property. Even though PACE loans are usually non-accelerating, this transferred assessment reduces the return that investors will expect from foreclosure sales because prospective buyers are likely to take the PACE obligation into account and adjust their bids accordingly.

As the value of their mortgage investments decline, investors may reduce their purchases of mortgages or mortgage-backed securities (MBS). This would reduce the amount of liquidity available in an already struggling housing market.

Investors might be particularly reluctant to purchase securities comprised of affordable loans to low- and moderate-income borrowers. As several commenters pointed out to FHFA, PACE loans are directed generally at lower-income homeowners who do not have the means to finance energy-efficiency upgrades to their homes through less costly loan products. Consequently, investors may believe that securities comprised of affordable loans are more at risk of having their value diminished via the imposition of first-lien PACE loans. As a result, lenders will have to tighten their already stringent credit standards, making it even tougher for low- and moderate-income consumer to secure affordable home loans. HFAs would struggle to fulfill their missions to provide responsible home-financing to less-fortunate borrowers, as they will find it difficult to sell such loans to investors as part of MBSs or Mortgage Revenue Bonds.

NCSHA also agrees with FHFA's contention that primary lien PACE programs could lead to financial losses for the GSEs. Any threat to them is of concern to HFAs, because the GSEs play a critical role in the financing of affordable home lending and have enjoyed strong, mutually beneficial partnerships with state HFAs. We believe FHFA's proposal takes strong and prudent steps to protect the firms and taxpayers from increased risk.

Thank you for your consideration of our comments. Please do not hesitate to contact me if we can provide additional information.

Sincerely,

Garth B Rieman

Garth Rieman