

March 21, 2012

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Fairfax County

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Manassas Park

Prince William County

**Adjunct Member*

Mr. Alfred Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024

RE: RIN 2590-AA53 Mortgage Assets Affected by PACE Programs

Dear Mr. Pollard:

On behalf of the Climate, Energy and Environment Policy Committee of the Metropolitan Washington Council of Governments (COG), we appreciate the opportunity to comment on the Federal Housing Finance Agency's (FHFA) proposed rulemaking concerning mortgage assets affected by Property Assessed Clean Energy (PACE) programs.

PACE is an essential state and local public policy tool that promises to conserve natural resources, increase energy security, reduce the health and environmental impacts of energy consumption, stabilize residential energy spending, and promote economic growth in our communities. PACE programs are unique in that they offer ways to overcome barriers to home energy improvement that no other financing system can provide.

We strongly urge you to reconsider your uniform opposition to PACE programs. We recommend that FHFA withdraw its July 6, 2010 Statement and February 28, 2011 Directive and adopt a rule stipulating that Fannie Mae, Freddie Mac, and other mortgage lenders regulated by FHFA be allowed to buy residential mortgages with PACE assessments. Furthermore, we encourage FHFA to work with federal agencies, states, and local governments to develop appropriate underwriting standards and homeowner protections for PACE programs.

PACE is uniquely positioned to facilitate home energy improvements. Even modest investments in home energy efficiency improvements can provide savings of 20 to 30%, reducing household energy spending by hundreds of dollars per year. Despite this, efficiency savings are under-realized. The White House Middle Class Task Force report, *Recovery Through Retrofit*, acknowledged that financing is a key barrier to home energy

improvements.¹ Additionally, the American Council for an Energy Efficient Economy (ACEEE) found that most loan programs are not penetrating the market of potential consumers.² Homeowners face high upfront costs and are widely concerned about being able to recover their investment if they move. PACE removes these barriers by spreading costs over time and by allowing transfer of the loan upon sale of the home.

PACE assessments are valid. Local governments play an important role in driving energy finance innovation, and this is precisely what they have done with PACE. While access to traditional finance mechanisms remains difficult, these programs allow local governments to assist homeowners in capturing the benefits of increased efficiency without using taxpayer funds. This is achieved by employing the long-standing local government authority to create special tax districts to promote the public good. PACE assessments are no less valid than any of the 37,000 other special assessment districts across the United States.³ FHFA has no statutory authority to determine the validity of local government assessments, thus we urge you to respect local governments' rights in this area.

Concerns about homeowner and mortgage holder protections can be addressed. FHFA's concerns about underwriting standards and consumer protections in PACE programs are reasonable, but they do not justify all-out condemnation of the mechanism.

Montgomery County's Home Energy Loan Program (HELP) was designed to enable homeowners to finance cost-effective energy saving improvements, while ensuring that the interests of private mortgage holders are protected.⁴ This program provides an example of best practices in underwriting that FHFA should consider in developing standards.

- Only improvements that are cost-effective should be financed. HELP required that cost effective energy efficiency improvements be in place before renewable energy improvements could be financed.
- Applicants should be prohibited from borrowing more than the assessed value of the property minus any pre-existing deeds of trusts or liens on the property.
- Program participants should be required to have paid all property taxes on time for the previous three years and be up to date on all debts to the County and state.
- Lenders should be notified of the placement of an assessment on a property.

State and local policymakers across the country understand the great potential of these programs. Over the course of just two and a half years, 28 states demonstrated their support for these programs by passing PACE legislation.

¹ http://www.whitehouse.gov/assets/documents/Recovery_Through_Retrofit_Final_Report.pdf

² <http://www.aceee.org/research-report/u115>

³ <http://www.census.gov/govs/cog/GovOrgTab03ss.html>

⁴ <http://www.montgomerycountymd.gov/dectmpl.asp?url=/content/dep/energy/energyloans.asp>

We urge you to reconsider your position on PACE programs to enable use of this innovative municipal financing tool, thereby encouraging homeowners to increase our nation's energy independence and clean energy generation.

Thank you for giving this your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jay Fisette". The signature is written in a cursive style with a horizontal line extending from the top of the "t".

Jay Fisette, Chair
Climate, Energy and Environment Policy Committee
Metropolitan Washington Council of Governments