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Mr. Alfred M. Pollard, General Counsel:

The Federal Housing Finance Agency has issued an Advanced Notice of Proposed Rulemaking pertaining to home mortgages that might be affected by Property Assessed Clean Energy (PACE) programs. Specifically, FHFA, as conservator for the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and the Federal Home Banks (GSE's) who are significant purchasers of residential mortgages in the secondary market, has posed questions in seeking input as to how a first-lien PACE program might adversely affect the standing of mortgages owned by these GSE's. Renu Energy, a solar project developer, is pleased to comment on this ANPR.

Financial Risks to Mortgage Lien Holders

PACE program provides an alternative financing channel for investments in energy conservation, distributed generation from a renewable energy source or reinforcement of the house to withstand potential weather-related damage. Investment in distributed generation such as 3-5 KW solar system for a residential property might cost the owner $20,000 - $30,000. Allowing for uniform payments over 20-year period, which is within the 25-year warranty period extended by solar panel manufacturers, results in an increase in property tax payments of approximately 0.5% for a property market value between $200,000 - $300,000. The premise of the PACE program is that the incremental increase in property tax payments attributable to the PACE program is more than offset by the reduction in electricity charges owed to the utility or third party electricity provider. The property owner benefits economically from the solar system installation and the monthly cash outflow for living expenses is reduced. If the property owner were to default in servicing the mortgage payments, the default most likely would not have been precipitated by the installation of the solar system.

Property owners indebt themselves to repaying PACE loans as they would for any other borrowing undertaking. If the potential energy-related home improvement project doesn’t make sense in terms of the value extracted relative to the cost, the rational decision would be not to proceed regardless of the financing approach. Financing energy-related home improvement projects through PACE incurs a cost comprised of the capital investment plus interest plus fees (unless the fees are embedded into the interest rate already). PACE program approach makes it more affordable for people to exploit energy-related savings than might otherwise be available to them for a variety of reasons such as higher interest rates due to below-stellar credit ratings, shorter loan repayment periods requiring higher monthly cash outflows that outstrip utility savings, unavailable affordable and convenient credit, prior history of bankruptcy, or sustaining an upside-down financial position with the property. At no time is a mortgagee’s capability to service the mortgage loan ever reexamined when a government entity decides to increase property taxes.

Other examples where senior mortgages are downgraded in seniority involve municipal service benefit units (MSBU) and mechanic’s liens. Where MSBU's have been implemented to deliver city water to outlying neighborhoods previously relying on wells, for example, assessments on the affected property owners are imposed and they are conferred with the same senior status as property taxes. Although specific details vary from state to state, in many instances when mechanic’s liens are placed on properties for failure to pay contractors, these debts must be extinguished first before the house may be officially transferred to another owner either through voluntary sale or foreclosure.

The major distinction between servicing a loan through a voluntary increase in the property taxes and a mortgage is that upon a change in ownership of the property (sale, foreclosure, inheritance), the mortgage must be immediately repaid. Servicing of the PACE loan through property tax collections remains the obligation of the new property owner and only the accrued payments must be met. This arrangement is no different than meeting the monthly or quarterly obligations of a homeowners' association.

Implementation of PACE-type programs that has been property structured offers benefits to property owners that outweigh the disadvantages. The cornerstone of the PACE program is that upon a property owner agreeing to voluntarily accept an increase in property taxes to pay for an energy conservation, renewable energy or weatherization investment, all subsequent owners of that property must agree to continue the payments until the end of the term of the loan. This approach exemplifies the way that easements and right-of-ways must be upheld in property sales contracts with all subsequent property owners.

The bottom line is that the GSE's do not face any material increase in financial risk in having their mortgages properly serviced than they do today under circumstances described above.

Underlying Property Value

Investments by a property owner to enhance the overall value of his/her property are at the discretion of the property owner. Prudent choices that increase energy efficiency, reduce utility charges or reinforce the house structure to minimize weather-related damage will be perceived by future prospective home purchasers as value-added attributes to be factored into the purchase price. Any renovation undertaken by a home owner is ultimately subjected to market-based appraisals as to its contribution in creating, destroying or remaining neutral towards the property value. This occurs outside of a PACE program now and should not be a material factor in the discussion of the PACE program.

Preferences by Prospective Home Buyers

Investments in technology or materials to increase the energy efficiency and reduce utility expenses will be perceived by future property buyers as being positive & will contribute favorably in the buyer's assessment of property worth in the market. As is true with any renovation made to the home property, some investments may be perceived by others as detracting from a property's future worth based on aesthetics or maintenance-intensity. This happens based on decisions made every day outside of a PACE program (e.g. in-ground pools, fencing, interior room sizes, storage sheds/detached garages) and should not be a material factor in the discussion of the PACE program.

Customer Disclosures

Points raised about conveying adequate disclosures to property owners regarding specific aspects of the prospective investment in energy efficiency, renewable energy or weatherization reinforcement are valid. Prior to making an investment decision, property owners must be sufficiently informed about potential carrying costs of that investment with respect to maintenance and equipment replacement outside of the warranty period (e.g. inverters after 10-15 years). Although the original equipment may become obsolete after a period of time, obsolescence does not detract from the financial savings or cost avoidance attribute that justified the investment originally. Understanding the track record of particular equipment that has been commercially available for a number of years is essential towards making an informed decision. It is vital that this knowledge is transferred to the property owner. Again, these concerns have merit but are not material with respect to the seniority status of mortgage loans associated with properties subscribed to a PACE program.

Regards,

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