



**CITY OF BOULDER
OFFICE OF THE CITY COUNCIL**

**Mayor Matthew Appelbaum
Deputy Mayor Lisa Morzel**

**Council Members: Suzie Ageton, KC Becker, Macon Cowles,
Suzanne Jones, George Karakehian, Tim Plass, Ken Wilson**

March 22, 2012

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:

Property Assessed Clean Energy (PACE) is a groundbreaking state and local government innovation with a clear public purpose: reducing our reliance on imported fuel, promoting energy security, avoiding the cost of building new power plants and transmission systems, and protecting the environment. PACE has enormous potential to save homeowners money, create local jobs and dramatically reduce energy use which brings tremendous public support for the program. Because of its unique ability to spur homeowner investment in energy efficiency, PACE legislation was passed by 28 states in just two and a half years, with strong bi-partisan support at the local, state and federal levels.

The City of Boulder believes that FHFA's action to unilaterally halt local government PACE programs on July 6, 2010, was unwarranted. With the July 2010 FHFA action, Boulder County's ClimateSmart Program – of which 42% of participants were City of Boulder residents – was stopped in its tracks, but we believe that FHFA's concerns could have been addressed without completely halting the program. This present rulemaking provides a needed opportunity to establish a fact-based record and correct misinformation and misunderstandings, to the benefit of all stakeholders, including local governments, mortgage lenders, homeowners, and others across the nation to whom PACE is an important tool. We appreciate the opportunity, and urge you to look for ways to accommodate these broadly beneficial programs.

To this end, we recommend that the FHFA adopt sound underwriting standards that ensure local PACE programs are designed to maximize benefit and minimize risk, as described below.

1. PACE assessments are valid - and are not “loans” as asserted by FHFA

FHFA has repeatedly referred to PACE assessments as “loans.” To the contrary, they are property tax assessments with characteristics similar to those of more than 37,000 other land-secured special assessment districts in the United States that are rooted in hundreds of years of state and local law. Such districts are typically created at the voluntary behest of property owners who vote to allow their local governments to finance public improvements such as sewer systems, sidewalks, lighting, parks, open space acquisitions, and business improvements on their behalf. Other districts allow property owners to act voluntarily and individually to adopt municipally financed improvements to their property that are repaid with assessments. PACE districts are similar to many other special assessment districts as well, in the size of their assessments and length of their repayment period.

2. PACE assessments present minimal risks to lenders, investors and homeowners

FHFA asserts that PACE presents “significant safety and soundness” concerns, but there is no evidence that this is true. There is long-standing experience, borne out by studies, that energy efficiency and renewable energy improvements reduce homeowners’ energy bills and increase their property’s value, strengthening their financial position and increasing the value of a lender’s collateral. These factors lessen, if not eliminate, the safety and soundness risk than the FHFA has asserted. Local governments that established PACE programs prior to the July 6, 2010, action by FHFA developed program standards to protect lenders and consumers. The White House (October 18, 2009) and the Department of Energy (May 7, 2010) both published national PACE guidelines with clear, strong underwriting standards to ensure that homeowners are able to afford the improvements. A bi-partisan bill in the House of Representatives (HR 2599 – Hayworth R-NY19) further delineates national standards to minimize risk to lenders and consumers. Finally, the early results of PACE programs in Boulder County, CO, Sonoma County and Palm Desert, CA, and Babylon, NY, show that PACE presents minimal risk: there are fewer than 30 known defaults out of nearly 3,200 upgraded properties, substantially fewer than the rate of default for non-PACE property-owners in the same districts. In Boulder County, there have been seven defaults on 621 PACE homes, which is much lower than the national average.

3. Home energy improvements financed with PACE achieve important economic and environmental benefits

State and local governments have also passed PACE laws because PACE has great potential to help governments attain important economic and environmental goals. For example, according to a May 2011 National Renewable Energy Laboratory study, in the first year alone, the Boulder County ClimateSmart PACE program created more than 125 jobs, generated more than \$20 million in overall economic activity and reduced consumers’ energy use by more than \$125,000. The ClimateSmart Program resulted in total annual energy savings across the county of 980,000kWh of electricity and 61,200 therms of natural gas, with annual greenhouse gas emissions reductions of 1020 metric tons of CO₂e, or the equivalent of removing 200 cars from our roads. These benefits are important by themselves. In developing a rule that serves the public interest, the FHFA must weigh perceived risks against economic benefits that clearly reduce default rates.

4. Proposed Rule:

We strongly urge you to reconsider your blanket opposition to PACE programs. We recommend that FHFA adopt a rule stipulating that Fannie Mae, Freddie Mac, and any other mortgage lenders regulated by FHFA be allowed to buy residential mortgages with PACE assessments that are originated by programs that conform to standards and guidelines such as those established in

HR 2599 (The PACE Assessment Protection Act) to protect the interests of local governments, homeowners, mortgage lenders and Government Sponsored Enterprises (GSEs).

Sincerely,

A handwritten signature in black ink that reads "Matthew Appelbaum". The signature is written in a cursive style with a horizontal line at the end.

Matthew Appelbaum
Mayor

cc: City Council
Jane Brautigam, City Manager