



March 22, 2012

Mr. Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA53
Federal Housing Finance Agency, Eighth Floor
400 Seventh Street SW
Washington, DC 20024

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

Dear Mr. Pollard:

On behalf of the Visalia City Council, I am forwarding these comments in response to the Federal Housing Finance Agency's (FHFA's) request for comments on the referenced rulemaking item. Property Assessed Clean Energy (PACE) is a powerful programmatic and financing tool to help residential, commercial, and industrial owners finance energy efficiency and renewable energy improvements in buildings. The City of Visalia has long supported PACE because it has enormous potential to save homeowners money, create local jobs and dramatically reduce energy use. PACE will reduce our reliance on imported fuel, promote energy security, lower demand on the energy grid, reduce the need and cost of building new power plants and transmission systems, and protect the environment.

We believe that FHFA's action to unilaterally halt local government PACE programs on July 6, 2010, was unwarranted. This rulemaking provides an opportunity to establish a fact-based record and correct misinformation and misunderstandings, to the benefit of all stakeholders: local governments, mortgage lenders, homeowners, and our nation. 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 reasonable underwriting standards that ensure local PACE programs are designed to maximize benefit and minimize risk, as described below.

1) **PACE Assessments Are Valid**

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

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similar to many other special assessment districts as well, in the size of their assessments and length of their repayment period. State courts in California and Florida have upheld the validity of PACE assessments.

2) PACE Assessments Present Minimal Risks

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. PACE financed improvements allow homeowners to hedge themselves against fuel price spikes and rising fuel costs over time. These factors lessen, if not eliminate, the safety and soundness risk that the FHFA has asserted. This is especially true here in the San Joaquin Valley, which experiences extreme summertime temperatures that requires homeowners to use significant energy at a high cost to operate air conditioning systems.

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. Consumer and lender protections in HR 2599 include:

- **Non-Acceleration:** Future, unpaid PACE assessments remain with a property upon sale or other transfer to a new owner, protecting lenders from total extinguishment of unsecured debt or home equity lines in defaults when a home is worth less than its outstanding mortgage balance.
- **15% Equity Test:** In order to qualify for PACE financing, homeowners must have 15% equity in their home.
- **Project Limitations:** PACE-financed projects cannot exceed 10% of home value.
- **Cost Effective:** Projects must pay for themselves by having a savings-to-investment ratio greater than one (SIR > 1).
- **Quality Work:** A required energy audit and any work performed must be done by an accredited, qualified contractor.
- **Soundness:** PACE financing is only available to homeowners who have a solid history of on-time mortgage and tax payments and no recent bankruptcies.

3) PACE Achieves 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 Department of Energy study, the Boulder County PACE program created over 120 jobs, generated more than \$20 million in overall economic activity and reduced consumers’ energy use by more than \$125,000 in the first year alone. 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 "Amy Shuklian". The signature is written in a cursive style and is positioned above a light gray rectangular background.

Amy Shuklian
Mayor