



March 26, 2012

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Mr. Alfred Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024
TRANSMITTED VIA EMAIL to: RegComments@fhfa.gov

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

Dear Mr. Pollard:

On behalf of the California State Association of Counties (CSAC), we appreciate the opportunity to provide input on the Property Assessed Clean Energy (PACE) program. CSAC is an association that represents county government before the California Legislature, administrative agencies and the federal government. Representing all 58 of California's Counties, CSAC places a strong emphasis on educating the public about the value and need for county programs and services critical for healthy and sustainable communities, including the PACE program. CSAC is also in the unique position of representing counties that have initiated and run successful PACE programs. With the passage of AB 811 (Chapter 159, Statutes of 2008), California created one of the country's first PACE programs that allows local government entities to offer sustainable energy project loans to eligible property owners. In addition, California passed landmark legislation, Assembly Bill 32: The Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006), which specifically requires California to reduce its greenhouse gas (GHG) emissions to 1990 levels by 2020, essentially a 30% reduction from business as usual. As leaders in the fight against global warming, California is continually looking for new and innovative ways to reduce our carbon footprint and create renewable and sustainable energy. We believe that the PACE program is an essential tool that will help California reach its climate and energy goals.

CSAC strongly supports the PACE program, a groundbreaking state and local government innovation with a clear public purpose: reduce our reliance on imported fuel, promote sustainable energy, and protect the environment. PACE has enormous potential to save homeowners money, create local jobs and dramatically reduce energy use. With the passage of AB 811, the California Legislature found that establishing contractual assessment programs to fund energy efficiency and renewable energy improvements serves the public good for addressing global climate change. Furthermore, PACE promotes the installation of such improvements by authorizing an alternative funding mechanism to make improvements more affordable to homeowners.

Successful PACE programs, such as the Sonoma County Energy Independence Program (SCEIP), provide proof that PACE is a powerful programmatic financing tool that really does drive energy efficiency and actual renewable energy projects with minimal risk. In Sonoma County alone, over 1600 property owners have participated in SCEIP since the program was initiated in 2009, and 1000 solar installations and 1600 energy efficiency projects have been completed. Solar installations have generated 7.7 megawatts of energy production, resulting in the removal of 4682 tons of carbon dioxide from the atmosphere. This is the equivalent of having removed over 800 cars from the road. In addition, Sonoma County has created 682 jobs with their PACE program. This has occurred at a time when other industries are implementing budget cuts and workforce reduction measures. In addition to Sonoma County, PACE programs, including non-residential programs are up and running in the County of Placer, Los Angeles, Sacramento and San Francisco as well as several other cities across California.

California is not the only state that has taken advantage of this innovative program. Because of its unique ability to spur homeowner investment in energy efficiency and clean, on-site renewable energy, PACE legislation was passed by 28 states in just two and a half years. It has strong bi-partisan support at the local, state and Federal levels. Thus, 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, and homeowners.

FHFA's objection to PACE programs begins with the assumption that PACE assessments are different than other, more traditional assessments. This is simply not true. In establishing PACE programs, the State Legislature and then the local government entities have made findings that the establishment of a program to install energy efficiency and renewable energy improvements serves an essential public purpose. Public funds are extended to complete the improvements. This not only serves the public purpose, but also specifically benefits the property that is the subject of the assessment by reducing utility costs for the property and increasing the value of the property. FHFA has also repeatedly and incorrectly 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.

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. 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 success of the PACE program in Sonoma County, as well as others across the country, is proof that PACE presents minimal risk.

We strongly urge FHFA to reconsider its blanket opposition to PACE programs and to revise the Statement and the Directive. We recommend that FHFA's proposed rule provide that Fannie Mae, Freddie Mac, and any other mortgage lenders regulated by FHFA be allowed to buy residential mortgages with PACE assessments. CSAC strongly believes that existing programs are well-designed and that there is no demonstrable risk from existing PACE programs.

Thank you for the opportunity to comment on this critically important matter. Should you have any questions regarding our comments, please contact me at kkeene@counties.org, or (916) 327-7500, ext. 511.

Sincerely,

A handwritten signature in black ink that reads "Karen Keene". The signature is written in a cursive, flowing style.

Karen Keene
CSAC Senior Legislative Representative