

From: Herman, John H. <John.Herman@faegrebd.com>  
Sent: Saturday, March 24, 2012 7:29 PM  
To: !FHFA REG-COMMENTS  
Subject: PACE Comments, RIN 2590-AA53, Attn Mr. Alfred Pollard, Esq.

Mr. Pollard and Members of FHFA:

I am a real estate attorney in Minneapolis, with a long history of involvement in major developments here. Please review my biography in the signature block link below. I have worked often on major legislation to effectively and inventively solve problems. Two years ago, I played a major role in Minnesota's passage of PACE legislation. We included mortgagee protection standards and ultimately the state's lending community did not oppose the legislation. We think this could be a very effective program. It has proved itself to be very low risk in other states. I hope FHFA will reconsider its current position and allow PACE. I understand the generic concern about not wanting to lose priority for mortgages, of course, but the structure of a proper PACE program would mitigate that and dramatically improve housing affordability. It would, in my opinion, actually help mitigate the current under-water situation that is a real risk for Fannie and Freddie. The view that street lights and sidewalks are appropriate for special assessment financing, but not energy improvements that actually save more than they cost, and improve homeowner housing affordability and make the country more energy secure is misguided.

I urge you to reconsider the current posture and allow PACE programs meeting reasonable requirements. For example a program should meet certain criteria, e.g. suitable energy survey prior to proposal to ensure appropriate projects, estimation of savings such that the homeowner saves not less than 110 % of the payment at current prices, appropriate contractor certification and inspection of projects, limitation of amount financed to 15% of the value of the real estate on the tax rolls. This would adequately mitigate FHFA and the two agencies concerns.

Let me give you my own example. I recently installed geothermal heat/cooling in my own home. It cost \$25,000 to install, so after the 30% tax credit, \$17,500 was my net cost. My prior year propane bill had been approximately \$3700 for heating, and additional electric of about \$300 for hot water and summer air conditioning. Last year (and the years prior were similar) my total bill electric for heat, hot water and summer cooling was just under \$1300. In other words, I had a net cost reduction of \$2400 for an actual out of pocket investment of \$17,500. This is a fabulous rate of return, but most homeowners could never afford that capital cost without a loan, and secondary, home equity funding is essentially unavailable for such projects today. PACE would make funding for such installations available to all homeowners, and in a structured program that would include consumer protections. This is a rational, economical and efficient solution, costing the government nothing, since program costs would be charged for the loan.

I strongly urge FHFA to reconsider the current position on PACE and work to set appropriate standards instead that make the PACE option feasible, but reasonably protect the mortgagee position. We all have a stake in energy improvements and independence.

Thank you for considering my comments. Please provide me with your final determination.

John H. Herman  
Partner  
john.herman@FaegreBD.com  
Direct: +1 612 766 8908  
FaegreBD.com Download vCard  
FAEGRE BAKER DANIELS LLP  
2200 Wells Fargo Center

90 South Seventh Street  
Minneapolis, MN 55402-3901, USA

This message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message and any attachments. Thank you.

To ensure compliance with Treasury Department regulations, we advise you that, unless otherwise expressly indicated, any federal tax advice contained in this message (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.