

## Tompkins County Legislature

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March 25, 2012

Mr. Alfred Pollard  
General Counsel  
Federal Housing Finance Agency  
400 7<sup>th</sup> St., N.W.  
Washington, DC 20024

RE: RIN 2590-AA53 Mortgage Assets Affected by PACE Programs; Comments on Advanced Notice of Proposed Rulemaking and EIS Scoping Comments

Dear Mr. Pollard:

I am writing as the Chair of the Tompkins County Legislature, located in New York's 22<sup>nd</sup> and 24<sup>th</sup> Congressional Districts. I appreciate the opportunity to comment on the Federal Housing Finance Agency's (FHFA) Proposed Rulemaking concerning mortgage assets affected by Property Assessed Clean Energy (PACE) programs.

The Tompkins County Legislature has repeatedly expressed its enthusiastic support for the establishment of a PACE financing program (See attached resolutions from 2009 and 2010.). We see PACE as a tool to help our residents combat rising energy costs, create thousands of local jobs, spur investment in clean energy improvements, and reduce the impacts of climate change. Therefore I strongly urge FHFA to withdraw its July 6, 2010 Statement and February 28, 2011 Directive, which unilaterally halted local PACE programs before they were even allowed to get off the ground. In August 2010, I wrote to Congressional leaders urging them to support PACE despite FHFA's actions, and to restore the promise of PACE. Unfortunately that has not yet happened, but now it is possible for FHFA to right this wrong itself.

PACE liens are authorized by states to be levied as tax assessments by special districts. There is a century of legal and historical precedent for special assessment districts, including more than 37,000 districts used to finance sewers, sidewalks, and other projects serving a public purpose. State-created tax assessments have long been recognized by FHFA as having a lien priority, and there is no good reason to make an exception for PACE liens.

Going directly to FHFA's concern about risk, PACE programs will increase homeowner cash flow for mortgage payments, and therefore actually *reduce* mortgage default risk.

At last count, twenty-eight states have passed laws enabling local governments to develop PACE programs. With strong bipartisan support nationwide, state and local governments have embraced PACE because of its tremendous potential. We seldom get such broad benefits from a single policy or program; it is a tragedy that this elegant, common-sense solution is being blocked.

I strongly urge FHFA to look for ways to accommodate PACE, to reconsider its blanket opposition to PACE programs, and to revise the Statement and the Directive. Thank you for your consideration.

Sincerely,



Martha Robertson  
Chair, Tompkins County Legislature

**Tompkins County Legislature August 18, 2009**

**RESOLUTION NO. 146 - SUPPORT FOR STATE LEGISLATION AUTHORIZING MUNICIPALITIES TO ESTABLISH GREEN LOAN PROGRAMS TO PROVIDE FINANCING TO RESIDENTIAL AND COMMERCIAL PROPERTY OWNERS FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY IMPROVEMENTS**

MOVED by Ms. Mackesey, seconded by Mr. Burbank. A voice vote resulted as follows: Ayes – 13, Noes – 1 (Legislator Hattery), Excused – 1 (Legislator Herrera). RESOLUTION ADOPTED.

WHEREAS, in 2008, the Tompkins County Legislature adopted the Energy and Greenhouse Gas Emissions element as an amendment to the Tompkins County Comprehensive Plan, and

WHEREAS, the Energy and Greenhouse Gas Emissions element set in motion a multi-faceted plan for the Tompkins County community to reduce energy demand, improve energy efficiency, make the transition to renewable sources of energy and reduce greenhouse gas emissions in the County by at least two percent of the 2008 level for each of the next forty years, achieving at least an eighty percent reduction in greenhouse gas emissions by the year 2050, and

WHEREAS, the element contains action items to help achieve energy and greenhouse gas emissions goals, including an action to investigate the feasibility of developing low-interest financing mechanisms to improve the payback for energy-efficiency investments made by homeowners, landlords, and businesses, and

WHEREAS, upon investigating financing mechanisms to reduce the payback periods on energy efficiency and renewable energy improvements for homeowners, businesses, and landlords, the Planning Department found that State legislation would be required to allow municipalities to establish green loan financing programs that could be paid in conjunction with other municipal real property taxes and would be imposed at an annual rate equal to the annual energy savings to the owner of the real property as a result of the energy-efficiency improvements performed with the proceeds of the financing, and

WHEREAS, similar programs have been very successful in places such as Berkeley, California and Babylon, New York, but are not easily replicable for municipalities in New York State without creating complex authorities or requesting special authorization from the New York State Legislature, and

WHEREAS, the New York State Legislature is considering bills in the Assembly and Senate (currently A7611-B Englebright, same as S4954-B Thompson) to amend New York State General Municipal Law to allow counties, as well as cities, towns and villages, to provide financing for green loan programs for improvements to buildings to implement energy efficiency measures and reduce greenhouse gas emissions, and

WHEREAS, Tompkins County and its community members will need many different strategies to achieve their emissions-reductions targets while at the same time reducing energy costs and improving comfort for homeowners, renters, and businesses, and low-cost financing options are key to making progress in these sectors, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee, That the Tompkins County Legislature hereby requests the State of New York to adopt

legislation amending General Municipal Law to authorize counties, as well as towns, cities, and villages, to establish green loan programs to provide financing to residential and commercial property owners for energy-efficiency and renewable energy improvements,

RESOLVED, further, That the Clerk of the Legislature is authorized to forward this resolution in support of amending General Municipal Law to Governor David A. Paterson; Senate Temporary President, Malcolm Smith; Senate Majority Leader Pedro Espada, Jr.; Senate Minority Leader Dean Skelos; Senator George Winner; Senator James Seward; Senator Michael Nozzolio; Assembly Speaker Sheldon Silver; Assembly Minority Leader James Tedisco; Assemblywoman Barbara Lifton; and the New York State Association of Counties.

**SEQR ACTION – TYPE II-20**

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**Tompkins County Legislature April 20, 2010**

**RESOLUTION NO. 56 - SUPPORT FOR STATE LEGISLATION TO AMEND CURRENT ENABLING LAWS AUTHORIZING SUSTAINABLE ENERGY FINANCING PROGRAMS**

MOVED by Ms. Mackesey, seconded by Mr. Burbank A voice vote resulted as follows: Ayes – 15, Noes – 0. RESOLUTION ADOPTED.

WHEREAS, in August 2009, the Tompkins County Legislature adopted Resolution No. 146 “Support for State Legislation Authorizing Municipalities to Establish Green Loan Programs to Provide Financing to Residential and Commercial Property Owners for Energy Efficiency and Renewable Energy Improvements”, and

WHEREAS, in November 2009, by Chapter 497 of the Laws of 2009, the State of New York authorized an amendment of the General Municipal Law by creating Article 5-L to allow municipalities to create Property-Assessed Clean-Energy Programs (known in New York State as “Sustainable Energy Financing Programs”) to promote the deployment of renewable energy systems and energy efficiency improvement measures at residential and commercial properties, and

WHEREAS, Tompkins County wishes to increase energy efficiency of existing buildings, reduce energy costs for residents, reduce carbon emissions to help mitigate climate disruption, reduce the negative health effects of fossil fuel emissions, and create and retain local jobs in the energy audit and energy contracting sector, and

WHEREAS, Tompkins County wishes to explore mutually beneficial ways of:

- Leveraging private sources of capital with other public and private resources to accomplish these objectives, and
- Coordinating efforts with Federal, State, and other agencies and authorities to assure that activities are compatible with the plans and programs of the cooperating municipalities, and

WHEREAS, the Sustainable Energy Financing Program enabled by Article 5-L should be amended to allow broader sources of funding while securing and facilitating such programs. Such legislation is now pending in the New York State Senate and Assembly, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee, That the Tompkins County Legislature hereby requests the State of New York to adopt legislation to amend, strengthen, and correct technical deficiencies within the current enabling laws authorizing Sustainable Energy Financing Programs, including allowing the use of bonds and other sources of public and private financing to establish and implement such programs,

RESOLVED, further, That the Clerk of the Legislature is authorized to forward this resolution in support of amending current enabling laws authorizing Sustainable Energy Financing Programs to Governor David A. Paterson, Senate Majority Conference Leader John Sampson, Senate Minority Leader Dean Skelos, Senator George Winner, Senator James Seward, Senator Michael Nozzolio, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Assembly Minority Leader Brian Kolb, Assemblywoman Barbara Lifton, and the New York State Association of Counties.

**SEQR ACTION: TYPE II-20**

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