United States Senate

WASHINGTON, DC 20510

February 17, 2012

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024

Dear Acting Director DeMarco:

We write in response to your Advanced Notice of Proposed Rulemaking (12 CFR PART 1254) regarding Mortgage Assets Affected by PACE (Property Assessed Clean Energy) Programs.

At the outset, we want to convey our strong support for communities across the country that have sought to implement PACE programs in a thoughtful and prudent manner. As you know, PACE enables homeowners to finance renewable energy and energy efficiency improvements to their homes. Such improvements often save significant amounts of money, reduce energy usage, and improve the overall value of a particular home.

Unfortunately, on July 6, 2010, the Federal Housing Finance Agency (hereinafter "the FHFA" or the "Agency") summarily halted the ability of communities to implement their respective PACE programs. In justifying its decision, the Agency raised several concerns such as the first-lien status of such assessments and the lack of uniform financial underwriting standards. Since then, the FHFA has been unwilling to act upon genuine and constructive suggestions aimed at addressing its concerns about safety and soundness.

Now that the Agency is subject to a preliminary injunction ordering it to proceed with the notice and comment process on PACE assessments, we hope that it will consider the following:

1. **<u>PACE assessments are like existing valid assessments—not "loans" as asserted by FHFA.</u>**

There are over 37,000 land-secured special assessment districts in the United States. These special assessment districts are rooted in hundreds of years of local and state law. They are routinely used by local governments to finance public improvements such as sewer systems, sidewalks, lighting, and business improvement. PACE districts are similar to many other special assessment districts in the size of the assessment and length of repayment. This history should provide a constructive body of experience out of which reasonable safety and soundness standards can be developed that both encourage widespread use of PACE, but also maintain the security of home mortgage lenders.

2. **<u>PACE assessments present minimal risks to lenders, investors, homeowners and GSEs.</u>**

Because energy efficiency and renewable energy improvements reduce homeowners' energy bills, increasing their cash flow, and can increase a property's value, they present less of a safety and soundness risk than the FHFA has previously asserted. Additionally, guidelines recommended by the White House (October 18, 2009) and the Department of Energy (May 7, 2010) established clear, strong underwriting standards to ensure that homeowners are able to afford the improvements. Though early, the results of PACE programs in Boulder County, Colorado; Sonoma County, California; Babylon, New York; and Palm Desert, California are overwhelmingly positive: there are only 2 known defaults out of more than 2,500 properties. As supporters of the PACE initiative, we would welcome a further discussion with the FHFA aimed at further minimizing any perceived underwriting risks.

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

According to a May 2011 Department of Energy study, the Boulder County, Colorado 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. Another national study concluded that if $1 million were spent on PACE improvements in four geographically diverse American cities (Columbus, OH; San Antonio, TX; Santa Barbara, CA; Long Island, NY were modeled), it would generate $10 million in gross economic output. It would also generate $1 million in combined Federal, state and local tax revenue and 60 jobs per city on average.

Conclusion

We understand the mandate of your agency to stabilize and protect the taxpayer investment in the government sponsored enterprises. We strongly believe that the PACE program can be implemented in a manner that will protect the safety and soundness of the enterprises while strengthening our nation's commitment to clean energy. All of us are committed to meeting these important goals.

We strongly urge you to reconsider your blanket opposition to PACE programs and to work with us and the broader public to ensure that they are implemented in an expeditious manner.

Sincerely,

Michael F. Bennet
U.S. Senator

Christopher A. Coons
U.S. Senator

Jeff Merkley
U.S. Senator

Mark Udall
U.S. Senator

Mark Begich
U.S. Senator

Jeff Bingaman
U.S. Senator

John F. Kerry
U.S. Senator

Al Franken
U.S. Senator

Tom Udall
U.S. Senator

Kirsten E. Gillibrand
U.S. Senator