


PACE and the Feds

Cisco DeVries | December 8, 2010

RENEWABLE  FUNDING



35% carbon emissions and energy use in the U.S. comes from buildings

27%



unemployment
U.S. construction
industry, 4/10

\$500 Billion

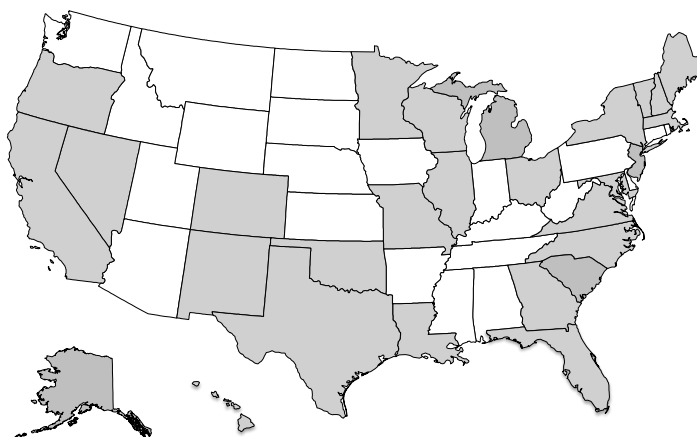


Net savings possible
from energy efficiency
in the U.S. by the year
2020

National PACE Policy

24 States Have PACE Authority

4 States Have PACE Legislation Pending



“


We are going to make it a lot easier to borrow money. We are doing this by encouraging communities to give you the option to pay the expense of retrofitting your home by paying it back on your property taxes.

”



The Road to the Green Revolution...





FEDERAL HOUSING FINANCE AGENCY
Office of the Director

June 18, 2009

Neil Milner
President and CEO
Conference of State Bank Supervisors
1155 Connecticut Ave. N.W., 5th Floor
Washington, D.C. 20036

David A. Saunders
Executive Director
American Association of Residential
Mortgage Regulators
2300 N St., N.W. Suite 710
Washington, D.C. 20037

William Pound
Executive Director
National Conference of State Legislatures
444 North Capitol Street, N.W. Suite 515
Washington, D.C. 20001

Mary Martha Forney
President and CEO
National Association of Credit Union Supervisors
1655 North Fort Myer Drive Suite 300
Arlington, Virginia 22209

Raymond C. Scheppach, Ph.D.
Executive Director
National Governors Association
Hall of the States
444 N. Capitol St. Suite 267
Washington, D.C. 20001-1512

Dear Mr. Milner, Ms. Forney, Mr. Saunders, Mr. Scheppach and Mr. Pound:

The Federal Housing Finance Agency (FHFA) regulates and oversees financial institutions that are vital to supporting our country's mortgage markets, housing policy and economic recovery—Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (FHLBanks).

This letter brings to your attention an emerging trend in state and local financing for residential energy efficiency home improvements. FHFA believes residential energy efficiency will help improve our use of resources and, in the long term, keep down the costs of home ownership. However, any such program must be carefully crafted to avoid unintended consequences for homeowners and lenders.

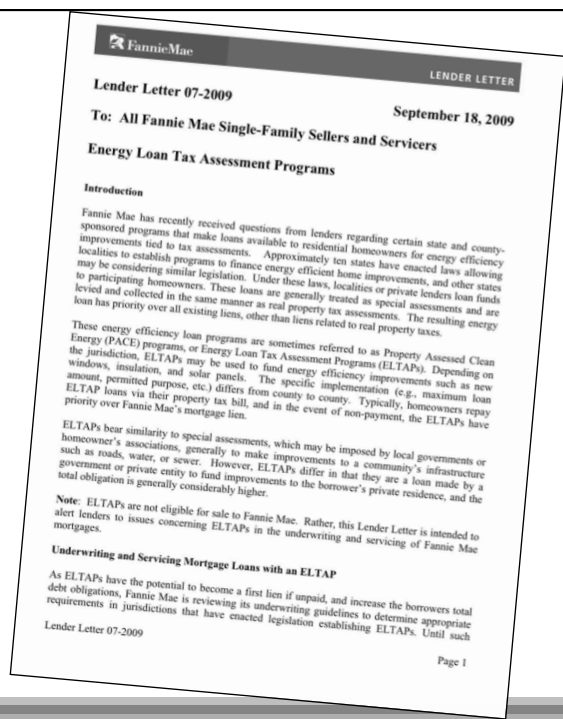
A significant feature of recently enacted energy loan tax assessment programs ("ELTAP") is that the loan amount is repaid as part of the homeowner's real property tax assessment and the loans have superior lien status to existing first mortgages. The effect is to impair the value of first mortgages to

The Feds Take an Interest:

- ✿ June 2009
 - Federal Housing Finance Agency Issues Letter Raising PACE concerns
- ✿ Summer 2009
 - White House Interagency Task Force Meets to Resolve Concerns, Develop PACE Guidelines

PACE Gets Green Light:

- ✿ Sept. 2009
 - Fannie Mae issues lender guidance allowing PACE to be treated as an "assessment"
- ✿ October 2009
 - Vice President Biden Announces PACE support
 - White House Framework Issued
 - \$150 Million in Federal Funds for PACE



The Hammer Falls...

- ✿ May 2010: Fannie Mae lender letter
 - PACE programs are "loans," not assessments
- ✿ July 2010: FHFA guidance letter
 - PACE creates "Safety and soundness concerns"
 - Punish PACE properties and communities offering PACE
- ✿ July 2010: Congressionally led PACE discussions with FHFA and other regulators
 - Result: FHFA sent a letter to Members of Congress breaking off talks.
- ✿ August 2010: Fannie Mae lender letter
 - PACE "loans" prior to July 6th must be paid off at time of refinance



Path Forward

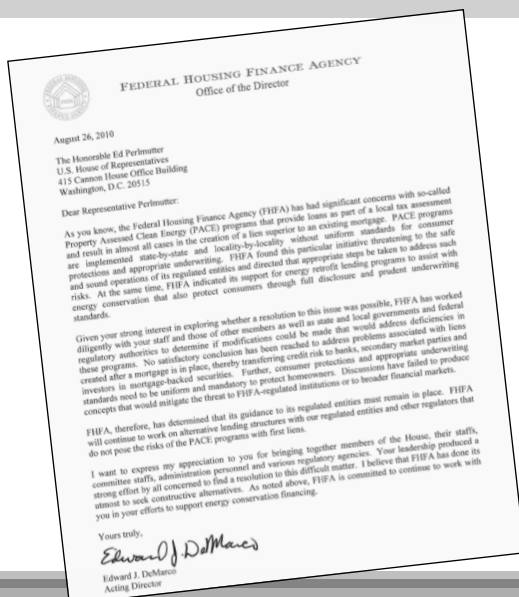


Negotiation

Litigation

Legislation

Current Status of Negotiations



FHFA to Congress:
“Discussions have failed...”

Litigation

✿ California Files Suit

- *People of the State of California vs. Federal Housing Finance Agency* (Filed July 14, 2010)
- “California seeks a prompt judicial declaration against Fannie Mae and Freddie Mac that, under California law:
 - ✿ (a) PACE programs operate by assessments, not loans, and such assessments are valid;
 - ✿ (b) liens that may result from PACE assessments, like those resulting from other types of assessments, have priority over mortgages; and
 - ✿ (c) participation in PACE programs is compatible with, and not in violation of, Fannie Mae’s and Freddie Mac’s standardized mortgage documents.”

✿ Additional lawsuits by Babylon, Sonoma County, Leon County, NRDC, Palm Desert, and Sierra Club

Legislation

✿ PACE Assessment Protection Act – bipartisan support

- HOUSE: HR 5766 (Thompson); 48 co-sponsors
- SENATE: S 3642 (Boxer); 5 co-sponsors

“To ensure that the underwriting standards of Fannie Mae and Freddie Mac facilitate the use of property assessed clean energy programs to finance the installation of renewable energy and energy efficiency improvements.”

✿ Legislation would require Fannie Mae and Freddie Mac to issue PACE underwriting standards that are consistent with US DOE guidelines

A Few Lessons From PACE



- ✦ PACE works: created demand and funded projects -- with zero defaults
- ✦ Regulators, finance industry can't 'see' energy costs
- ✦ Lack of uniform standards was a challenge for regulators

RENEWABLE  FUNDING

Cisco DeVries | cisco@renewfund.com | (510) 451-7900

