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PROPERTY ASSESSED CLEAN ENERGY PROGRAM

REQUESTED ACTION: Support legislation that would prevent federal housing regulators from adopting policies that contravene established state and local property assessed clean energy (PACE) laws. Additionally, urge federal housing regulators to establish best-practice underwriting standards, so that well designed PACE programs can move forward in ways that protect all stakeholders.

BACKGROUND: PACE is a cost-effective program that enables local governments to finance renewable energy and energy efficiency projects on privately owned residential and commercial property. Under PACE, property owners can elect to have up to 100 percent of the cost of clean energy improvements added to their property tax bill as an assessment or special tax. The assessment is secured by a lien on the property and is not an obligation of the individual property owner. Rather, the assessment remains with the property until it is paid. It should also be noted that participation in these programs is purely voluntary.

In addition, PACE programs have been proven to generate tremendous economic benefits without federal tax subsidies, mandates, or expansion of any federal programs. In fact, \$10 million in private capital market spending, on average, creates 150 new jobs, generates \$25 million in gross economic output, and produces \$2.5 million in combined federal, state, and local tax revenue.

Despite the program's clear environmental and economic benefits, the Federal Housing Finance Agency (FHFA), which oversees Fannie Mae and Freddie Mac, issued orders in 2010 that effectively shut down residential PACE programs across the country. In halting implementation of PACE, FHFA expressed a series of concerns with the program, including that first liens established by PACE assessments pose risk management challenges for existing mortgage lenders.

However, a federal court in California ruled in August of 2011 that FHFA violated the Administrative Procedures Act when it issued its 2010 statement that halted PACE programs. As a result, the court ordered the agency to proceed through a formal rulemaking process on its PACE directives. Although FHFA appealed the decision, the agency was directed to start a public notice and comment process.

As required, FHFA issued a proposed rule in June of 2012 that essentially maintained the status quo with regard to PACE programs. In formal comments to the agency, CSAC recommended a revised rule that would permit Fannie Mae and Freddie Mac to purchase mortgages with PACE liens, if certain underwriting standards are established. FHFA is required to issue its final rule in May, but has indicated it may ask for an extension.

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