

**Property Assessed Clean Energy Districts:
States Rights, Benefits & Responses
to FHFA/Regulator Overreach**

Senate Banking Committee Presentation
July 22, 2010

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PACE Legislation Needed to Protect State's Rights & Programs

Rapid Nationwide Adoption of PACE Districts: In two years, 22 states – red and blue - adopt PACE enabling legislation. States recognize unique benefits to homeowners, lenders, municipalities and our nation. PACE recognized as the long sought financing solution for retrofitting our nation's homes and buildings.

July 6th, 2010 Regulators Block State Programs: FHFA & OCC Issued Statements that effectively shut down PACE pilot programs across the nation.

Regulators Refuse to Co-Architect National Pilot Program: PACE stakeholders and bipartisan leadership repeatedly attempt to engage in productive dialogue with regulators. These discussions produced no positive results.

Legislation: Congress, which chartered Fannie Mae and Freddie Mac, and which established FHFA & OCC, must quickly intervene to pass legislation that reasserts the right of state and local government to form special assessment districts to promote clean energy programs and restore the promise of PACE.

What is PACE?

PACE = Property Assessed Clean Energy Finance

PACE is a local government program that allows property owners to finance energy efficiency and renewable energy improvements using bonds that generally have no recourse to the municipality. Interested residential and commercial property owners opt-in to receive financing (up to 20 years) for these improvements, which is repaid through an assessment on their property taxes. This arrangement spreads the cost of clean energy improvements – such as energy efficient boilers, upgraded insulation, new windows, solar installations, etc – over the expected life of the measure and allows for the repayment obligation to automatically transfer to the next property owner if the property is sold. The following states have enacted PACE enabling legislation in the past few years: **CA, CO, FL, GA, IL, LA, ME, MD, MN, MO, NV, NH, NM, NY, NC, OH, OK, OR, TX, VT, VA, WI.**

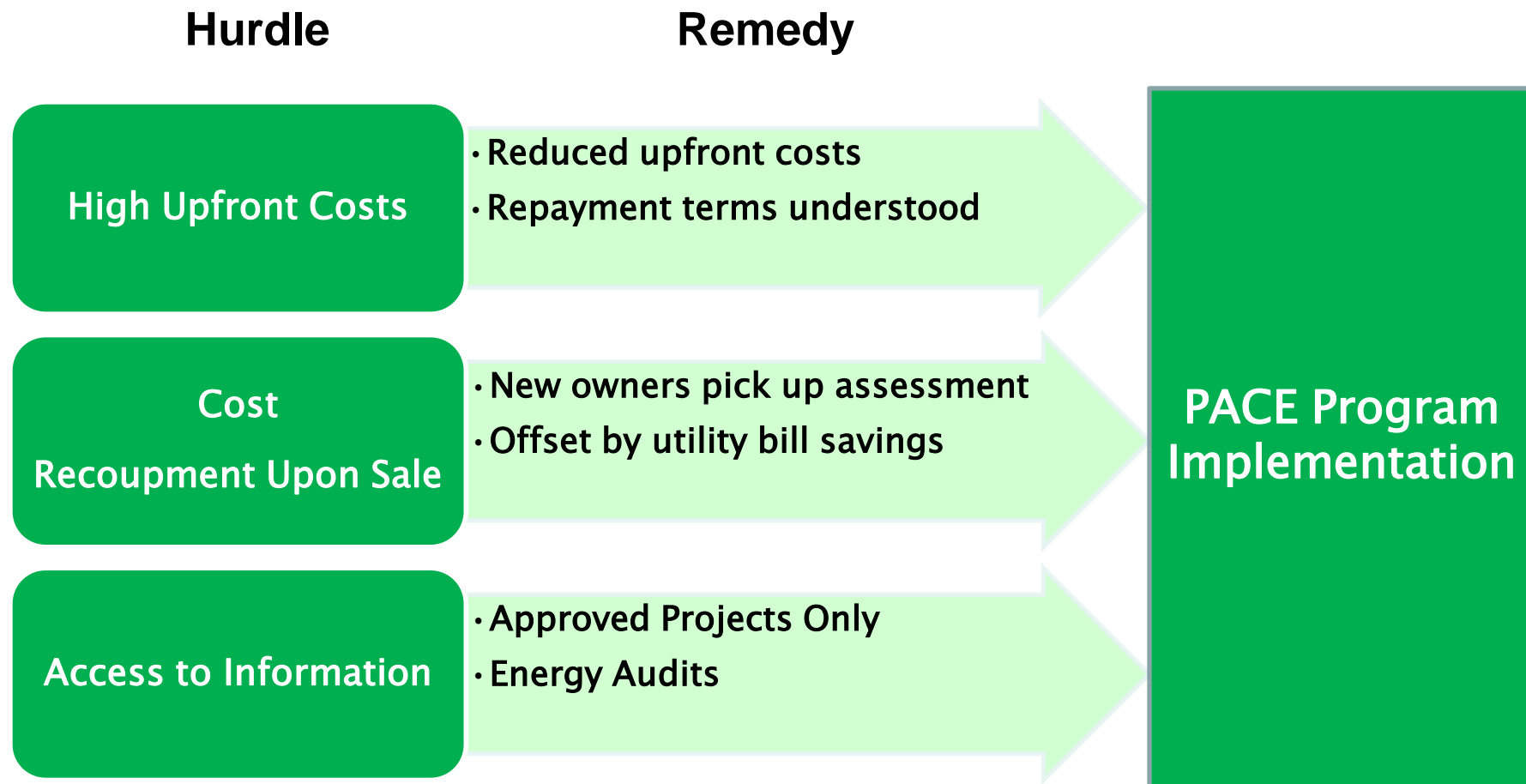
Why is PACE so innovative?

High upfront cost is the single largest barrier to increased adoption of energy efficiency and small-scale renewable energy. The second barrier is the uncertainty as to whether property buyers will pay more for efficiency improved properties. PACE removes the upfront cost barrier and removes the uncertainty barrier as the new buyer inherits the annual tax surcharges.

Historical precedent

PACE is a type of land-secured financing district, which has a 100+ year history in the U.S. to pay for improvements in the public interest. Over 37,000 land secured districts already exist and are a familiar tool of municipal finance. They are used to finance projects which serve a public purpose, including street paving, parks, open space, water and sewer systems, street lighting, and seismic strengthening, among others. Link: [Paul Hastings Legal Opinion](#) (Appendix 1).

PACE Removes Hurdles to Clean Energy



Assessments: State Rights and Legal Precedent

PACE is not a new type of financing

Land-Secured Districts: PACE assessment districts are a form of land-secured financing districts which number more than 37,000 in the U.S. and which have a 100+ year history to pay for improvements in the public interest

State/Local Government Right: Local governments have a long-established right to levy assessments to pursue a valid public purpose. The 37,000 land-secured districts have senior assessments on more than 5 million properties* and are included in the standard mortgage underwriting process.

- Referred to as improvement districts, assessment districts, etc., they are used to finance a wide range of improvements with public and private benefit (streets, sewers, street lighting, business districts, etc.)
- Many historical examples of “voluntary” property-by-property land-secured financing districts across the country (seismic – CA; septic replacement – MA; sidewalks - NJ)
 - *Dressman v. Farmers' & Traders National Bank of Covington*

PACE finance public purposes include: Energy efficiency & renewable energy goals, greenhouse gas reduction, global climate change mitigation, advancement of clean energy economy, and improved energy independence

See *Bloomberg Law Reports* article on PACE Land-Secured Districts ([click here](#) or see Appendix 2)

* Assumes approximately 150 properties exist in each district

Steps in Land-Secured Financing

Local government approves financing of improvement with a defined public interest, such as a park or sewer system.

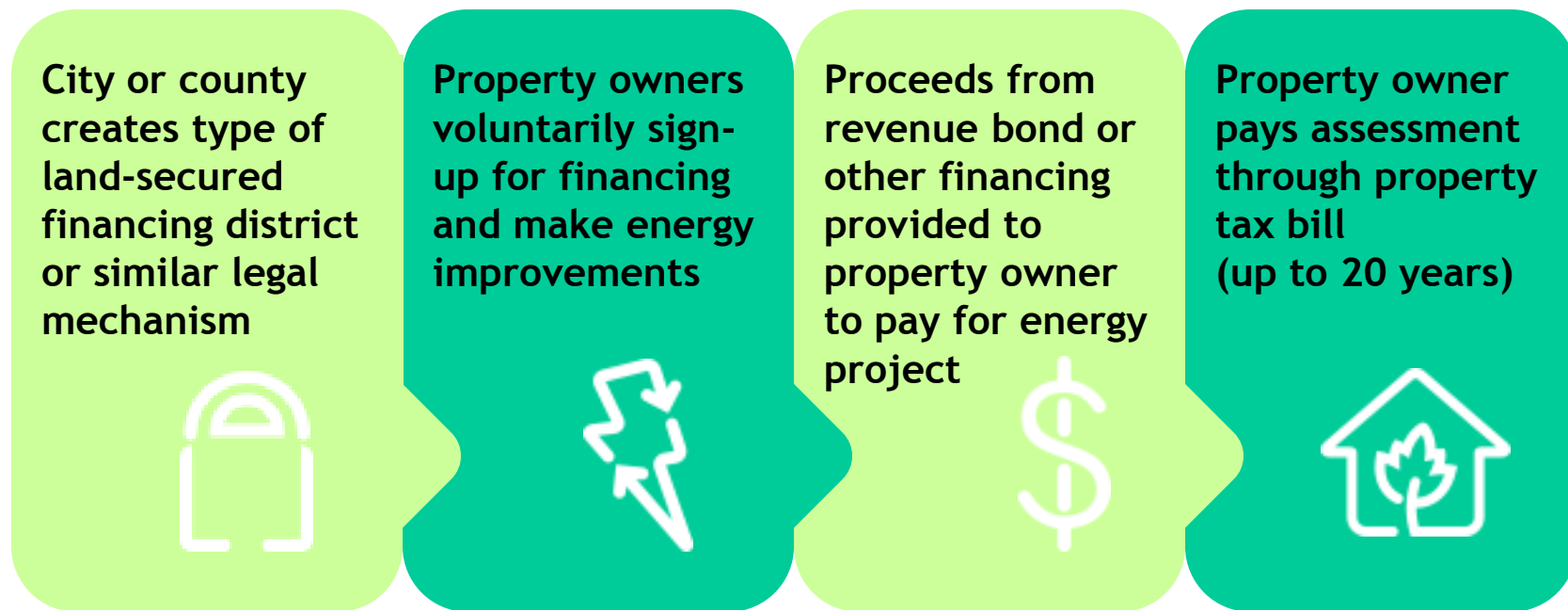
Costs for the improvement are identified and local government issues bond to pay up front capital costs.

Senior assessment or tax lien placed on properties that receive a benefit from the financed improvement.

Lien secures assessment levied on benefitted properties through property tax bill. Assessment repays bond investors.

*** Land secured financing districts – variously referred to as assessment districts, public improvement districts and community facilities districts – are a familiar tool of municipal finance. They are used to finance projects which serve a public purpose, including street paving, parks, open space, water and sewer systems, sports arenas and street lighting, among others.*

How PACE Works



*** Unlike traditional land-secured financing, PACE programs are 100% voluntary -no property owner pays additional assessments or taxes unless they choose to have work done on their property. Program participants pay only for the cost of their project (including interest) and nominal fees to administer the program.*

Benefits of PACE

Benefits to Existing Lenders

- Lower Default Risk – Owner’s cash flow position is improved as PACE programs are designed to have annual energy savings exceed the annual PACE assessment payments. Owner is now in a better position to make mortgage payments.
- Better Loan-to-Value Ratio – Since PACE improvements have a positive net present value, they increase the lender’s collateral which improves the loan-to-value ratio.
- Best Practice Framework Adopted for Lenders - The White House [PACE Best Practice Framework](#) (Appendix 3) and the [Department of Energy Guidelines](#) (Appendix 4) are now being incorporated into PACE programs nationwide to help ensure that PACE programs benefit existing lenders.
- PACE Senior Lien is Immaterial (less than \$200 per home) – PACE assessments are treated as senior liens which is critical for the success of the programs but the seniority amount is immaterial due to the per property size limits of PACE finance and other best practice measures (Links to [NY Times Article](#) - Appendix 5 & [PACE Lien Immateriality](#) - Appendix 6).

Benefits to Property Owners

- No Upfront Cost – Removes the upfront cost barrier of energy efficiency and renewable energy improvements. Most programs only charge a small fee to property owners.
- Improved Cash Flow – Owner’s cash flow position is improved as PACE programs are designed to have annual energy savings exceed the annual PACE assessment payments. This improves ability to make mortgage payments.
- Less Investment Risk - Removes the uncertainty of recovering the cost of improvements if the property is sold, because the financing runs with the property via the tax assessment.
- Best Practice Framework Adopted for Consumers - The White House [PACE Best Practice Framework](#) (Appendix 3) and the [Department of Energy Guidelines](#) (Appendix 4) are now being incorporated into PACE programs nationwide to help ensure that PACE programs have best of class consumer protections.

Benefits of PACE cont'd

Benefits to Municipalities

- Local Job Growth – PACE has the ability to stimulate local job creation through the installation of efficiency and energy improvements. It is estimated that for every \$1mm spent on clean energy improvements, 10 jobs are created. For every 100,000 homes that are retrofitted, with an average expenditure of \$10,000, more than 10,000 jobs would be created.
- No Credit or General Obligation Risk – PACE bonds are typically not general obligation or appropriation bonds, so the municipality's credit is not placed on the line. The obligation resides exclusively with the property owner.
- Improves Finances of Local Residents – PACE is the only form of assessments that increase the cash flow of property owners
- Opt-in Assessments – The assessments are only placed on those properties where the owner voluntarily “opts-in” to the financing program.
- Meet Carbon Reduction Goals – Counties, cities, towns and villages can use this tool to move quickly toward achieving their carbon reduction and energy independence goals.

Benefits to Our Nation

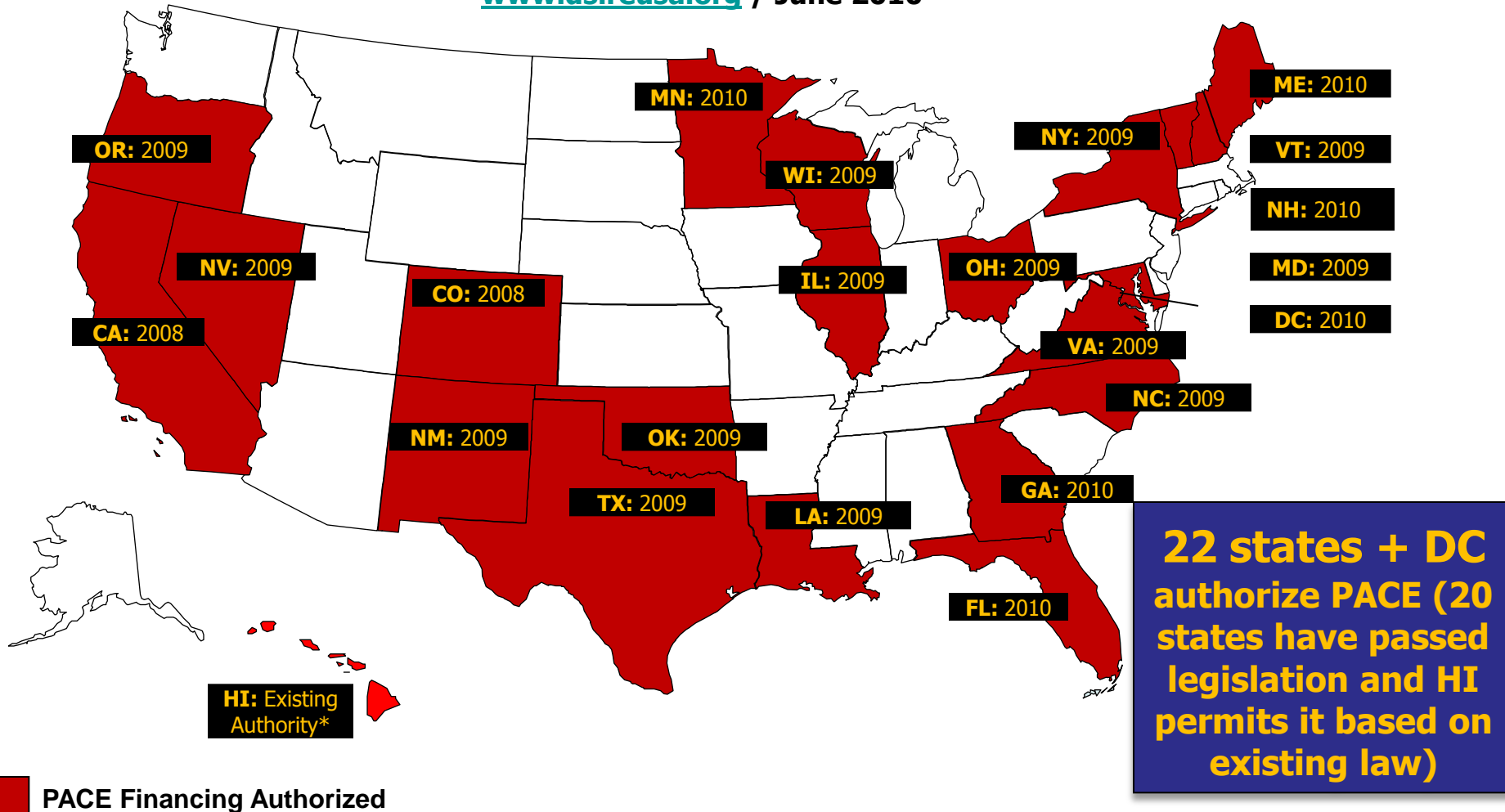
- Significant job creation
- Accelerates movement toward energy independence & reduces GHG emissions
- Very low fiscal cost & high probability of success
- Private capital will ultimately finance PACE programs

Benefits of PACE - Sonoma County Case Study

- **Nation's Largest:** Sonoma county is our nation's largest PACE program
 - 1,010 Homes
 - 22 Commercial properties
- **Reduces Delinquencies:** The tax delinquency rate on Sonoma's PACE retrofit homes is 60% lower than that of non-PACE homes
- **PACE Reduces Defaults:** There have been no noticed defaults on PACE properties versus a 7% general mortgage default rate in Sonoma county
- **Additional Benefits of PACE:**
 - 330 new and maintained jobs per ARRA standards
 - 7.5% increase in construction jobs per State EDD statistics
 - 3 Mega Watts of new clean energy generation-enough for 800 homes
 - 1900 tons of carbon reduction
 - 74% increase in retail sales for energy efficiency products per Home Depot
 - \$30 million disbursed for economic recovery and energy efficiency

PACE Gains Nationwide Bipartisan Acceptance

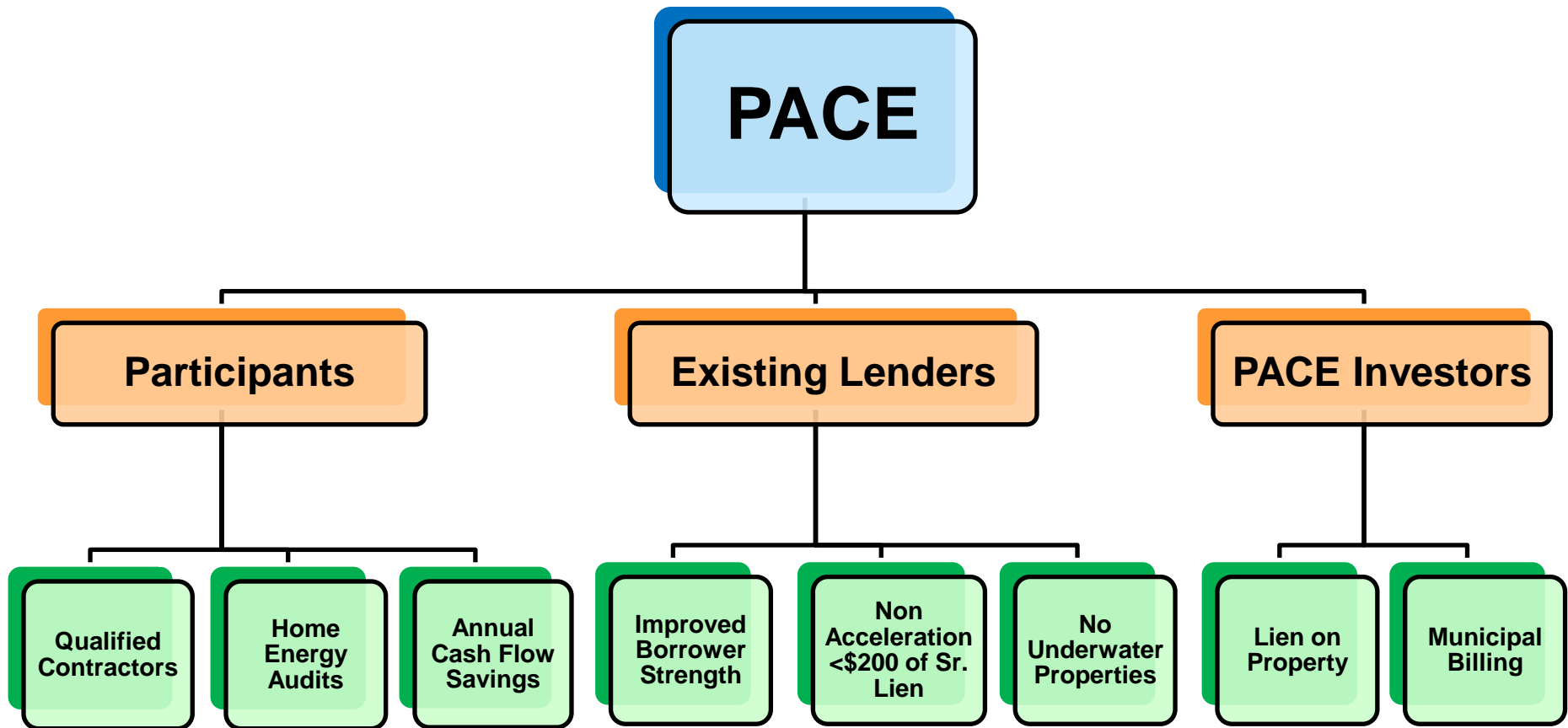
www.dsireusa.org / June 2010



PACE Nationwide Proof of Concept Trials to Launch with Exhaustive Lender & Consumer Protections

- **2009/2010 Bipartisan PACE Leadership:**
 - 22 States Develop PACE Lender & Consumer Protections to accelerate state programs
- **2009 White-House PACE Guidelines:**
 - WH Led Task Force (HUD, NEC, CEQ, OMB, DOE, Treasury) Publishes PACE “Best Practice Framework”
- **May 2010 Department of Energy announces:**
 - **Grants:** State/municipal grants to serve as catalysts for state PACE programs
 - **Protections:** Issues “safety & soundness” lender and consumer protections
 - **Trial Period & Data Collection:** 24 month trial period for 12 grantee states
 - **Program Launches set for Summer 2010**
- **July 2010: Regulators Block PACE Trial Period**

PACE Safety & Soundness Protections Structured to Minimize Risk



PACE Safety & Soundness Consumer Protection

<u>Protection</u>	<u>Purpose</u>
Annual utility bill savings should exceed increase in annual tax assessment payments	To ensure that the homeowner's cash flow increases so they have more income to make mortgage payments
PACE finance limited to high impact projects	To ensure that retrofits are limited to projects that have well documented efficiency gains. This maximizes the impact of PACE on improving efficiency and protects homeowners and lenders
Energy audits / licensed contractors / quality assurance	These measures are meant to ensure that the homeowner's retrofit is constructed as intended. Municipalities should have the power to disqualify contractors who fail to remedy problems – strong incentive to complete work correctly
Adequate consumer disclosure / training for homeowners	To reduce the risk of consumer fraud

PACE Safety & Soundness Lender Protection

<u>Protection</u>	<u>Purpose</u>
Non-Acceleration requirement results in <\$200 of potential senior lien exposure per PACE home	To reduce senior lien exposure, PACE programs mandate that only delinquent PACE payments (e.g. 1-2 years out of 15-20) get seniority in a foreclosure. The future payments are assumed by the new purchaser. This results in <\$200 of senior lien exposure per home (\$15,000 PACE retrofit, 1 year of payments = \$1,500 * 5% default rate = \$75. 2 years of payments = \$150).
Annual utility bill savings should exceed increase in tax payments	To ensure that the homeowner's cash flow increases so they have more income to make mortgage payments and default risk decreases
Property value exceeds property debt	To avoid PACE loans to borrowers who have properties in distress as these borrowers are more likely to default. PACE programs should compare estimated value to outstanding debt.
No current default by homeowner	To decrease risk by avoiding homeowners who are not current on taxes, have unsatisfied liens, have notices of default, or have any other material delinquencies
Limit maximum PACE lien value to percentage of property value	Maximum lien percentage, such as 10%, ensure that PACE retrofits remains a relatively small percentage of overall home value
Clear title	To avoid easements, liens, subordination agreements, etc. that conflict with the PACE assessment

PACE Supporters

Organized Labor PACE Supporters:

- International Association of Heat and Frost Insulators and Allied Workers
- International Brotherhood of Teamsters
- International Union of Painters and Allied Trades (IUPAT)
- Laborers International Union of North America (LIUNA)

NGO PACE Supporters:

- Alliance to Save Energy
- American Institute of Architects (AIA)
- Americans for Clean Energy
- Bipartisan Policy Center
- Center for American Progress
- Center for Sustainable Energy
- Clinton Global Initiative
 - ([Link to President Clinton's PACE Announcement](#))
- Environmental Defense Fund (EDF)
- Milken Institute
- National Association of Real Estate Investment Trusts (NAREIT)
- Natural Resources Defense Council (NRDC)
- Polyiso Insulation Manufacturers Association (PIMA)
- Real Estate Roundtable
- Sierra Club
- Solar Energy Industries Association (SEIA)
- Stewards for Affordable Housing for the Future (SAHF)

Corporate PACE Supporters:

- Johnson Controls Inc.
- Jones Lang LaSalle Inc.
- Masco Home Services
- ProLogis
- Siemens Corp
- Simon Properties Group
- Tishman Speyer
- Trane

Financial Institutions Working on PACE:

- Barclays Capital
- Citicorp
- Goldman Sachs
- Royal Bank of Canada
- Wells Fargo

FHFA/Regulator July 6th Claims & Factual Responses

FHFA/Regulator July 6th Claims & Factual Responses

The Regulators July 6th Announcements Stopped PACE and Ignored:

- State rights & legal precedent
- Detailed safety & soundness protections
- Specific written proposals from PACE stakeholders developed by the financial community
- Immateriality of PACE seniority (less than \$200 per home)
- Trial status: The nationwide PACE programs were designed as a 24 month trial to gather facts and data
- See link for [FHFA announcement](#) – or see appendix 8

Regulator Claim #1: “PACE does not have ample safety and soundness protections for consumers and lenders”

PACE Response:

See protections initiated by state programs and codification during six months of analysis by White House Inter-Agency Task Force (click here for [White House Best Practice Consumer/Lender protections](#) or see appendix 3 & here for [DOE Guidelines for PACE Pilots issued May 2010](#) or see appendix 4). The DOE safety & soundness guidelines were developed in concert with HUD, NEC, Treasury, CEQ, OMB and the White House.

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Regulator Claim #2: “PACE will be bad for existing mortgage lenders because PACE is a senior lien”

PACE Response: Where is the risk? See New York Times journalist article titled “Analysis: Energy lien is little threat to loan giants” ([click here](#) for article or see appendix 5).

- 1. Non-Acceleration = Less than \$200 of Seniority per PACE Home:** One of the biggest criticisms from FHFA was that in a foreclosure the PACE lien gets paid before the mortgage. This risk was cured by requiring that PACE programs only permit past due PACE payments when a home is in foreclosure (typically 1 year of payments out of a total of 15 years) to be paid senior to the existing mortgage. The remaining PACE balance and future payments would be assumed by the new home purchaser. This modification reduced PACE senior lien exposure from the full balance of the retrofit (approximately \$15,000 on average) to only the delinquent back payment (approximately \$1,500). The \$1,500 of potential senior lien risk is further reduced by fact that mortgage defaults range from 5% to 10% so that the potential exposure would be \$75-\$150 per PACE home.
- 2. PACE financed retrofits target cash flow positive/reduce mortgage delinquencies** – As part of our nation’s PACE guidelines, the DOE grantees are required to target home retrofits where the savings in year exceed the annual assessment – such that the homeowner’s cash flow would improve and the risk of mortgage default would go down. Note: Sonoma county, the largest PACE county in our nation, is experiencing tax delinquencies on PACE homes that is 60% below non-PACE homes – a testament to the potential of PACE to benefit all stakeholders, including existing mortgage lenders.*

* Source: Sonoma County Tax Collector’s office. General delinquencies of 3.0%, PACE delinquencies of 1.2%.

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Regulator Claim #3: “Underwriting for PACE programs results in collateral-based lending rather than lending based upon ability-to-pay, the absence of Truth-in-Lending Act and other consumer protections, and uncertainty as to whether the home improvements actually produce meaningful reductions in energy consumption.”

PACE Response:

Ability-to-pay: The Regulators suggested that using a debt-to-income test – to ensure that PACE assessments to strengthen PACE programs. The Administration & PACE stakeholders agreed to a debt-to-income test that would not overly burden the cost of PACE programs. However, the Regulators never responded. ([See letter to FHFA with Debt to Income test proposal - see section 2 – III](#) or appendix 7).

Note that:

- **Collateral-based financing – based on protective guidelines – poses no more risk than financing provided according to ability-to-pay, when using sufficiently conservative financing criteria.**
- **PACE financing is secured by property tax payments with extremely low default rates, historically below 2%. U.S. DOE guidelines require debt service reserve funds that protect investors from late payment or non-payment of PACE assessments; state laws such as California’s SB77 provide PACE programs establish adequate reserve funds.**

Truth-in-Lending: The Regulators suggested additional Truth-in-Lending disclosures would strengthen PACE programs. The Administration & PACE stakeholders agreed to additional disclosures. However, the Regulators never responded to this offer. ([See letter to FHFA - see section 2 - V](#) or appendix 7).

Home Improvement: Most PACE programs require that property owners conduct upfront energy audits to identify cost-effective, energy-saving opportunities that can be measured and verified.

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Regulator Claim #4: “First liens established by PACE loans are unlike routine tax assessments and pose unusual and difficult risk management challenges for lenders, servicers and mortgage securities investors.”

PACE Response: PACE relies on the method of “land-secured financing” that local governments have used for more than a century to levy special tax assessments through special taxing districts to fund sewers, sidewalks, seismic retrofitting, fire safety improvements, and many other projects that serve a public purpose. ([See Paul Hastings legal opinion on PACE](#) – see appendix 1).

All special assessment districts rely on tax liens that are senior to the mortgage loan; PACE districts are no different.

- **Sr. Assessment Long History in Underwriting/Mortgage Securitizations:** The 37,000 land-secured districts have senior assessments on more than 5 million properties* and are included in the standard mortgage underwriting process as well as being disclosed in RMBS and CMBS offering documents. PACE liens have the same status as regular property taxes or any other special assessment that servicers manage routinely.
- **At \$5 Per Home Immaterial Impact to Mortgage Investors:** Like other assessments, PACE senior liens in foreclosure are immaterial at \$200 or less per home (see calc in Claim #2). For mortgage investors, the numbers are even smaller as they depend upon the penetration of PACE. With a 3% PACE penetration rate, the senior lien exposure to mortgage bond investor would be 3% * \$150 or less than \$5 per home.**

* Based upon estimate of 150 properties per assessment program.

**Calculation details: Assume average \$15,000 PACE retrofit at 6% rate/15 year amortization = \$1,500 per year in payments. Assume in a foreclosure there are 2 years of delinquent payments ($\$1,500 \times 2 = \$3,000$). If 5% of PACE homes go into foreclosure = $5\% \times \$3,000 = \150 in back payment seniority per PACE home. If PACE has 3% penetration, the average mortgage bond pool would be exposed to $3\% \times \$150 = \4.50 of PACE seniority per mortgage.

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Regulator Claim #5: “The size and duration of PACE loans exceed typical local tax programs and do not have the traditional community benefits associated with taxing initiatives.”

PACE Response:

- PACE assessments, which can range from \$2,500 to \$50,000 or more with terms up to 20 years, are similar in size and duration to more “traditional” special assessments that can exceed \$50,000 per property for infrastructure improvements (such as undergrounding of utility services) with terms of up to 20 years. See Sonoma example on next page.
- By reducing the property owner’s energy bill, PACE is the *only* type of special assessment that actually improves cash flow to the property owner by lowering operating expenses.
- In addition to reducing financial risk for the property owner, PACE financing delivers community benefits of cleaner air, local economic development and cost savings. By reducing energy use and generating renewable energy, PACE cuts greenhouse gas emissions and other harmful pollutants from the burning of fossil fuels and reduces a community’s reliance on imported energy sources. These community benefits are no less worthwhile than realized by other special assessments.

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Sonoma County Assessments:

- Long duration: Range from 10-40 years
- Average annual assessment amount \$4,000 to \$100,000+

Sonoma County - List of Property Tax/Special Assessments that are Analogous to PACE								
District Name & Issuing Authority	Improvements Constructed	First Year on Roll (1)	Last Year on Roll	Term of Original Bonds	Current Number of Parcels (2)	Average Assessment Amount (3)	Is debt senior to first mortgage	Voluntary (4)
Russian River County	Acquisition of existing private water system and improvements, including wells, pipes, etc.	2009	2048	39	27	\$9,936	Yes	Yes
Russian River County	Acquisition of existing private water system and improvements, including wells, pipes, etc.	2009	2048	39	21	\$26,000	Yes	Yes
Russian River County	Acquisition of existing private water system and improvements, including wells, pipes, etc.	2009	2048	39	6	\$56,286	Yes	Yes
County of Sonoma	Grade & pave roads, water, sewer, and storm drain installation	2006	2030	25	144	\$32,214	Yes	Yes
City of Healdsburg	Roadway upgrades to drainage, lighting and undergrounding utilities	2005	2014	20	387	\$3,773	Yes	Yes
Town of Windsor	Roadway upgrades to drainage, lighting and undergrounding utilities	2005	2025	20	21	\$233,321	Yes	Yes
Occidental Community	Construction of water well, booster pumping stations, and transmission mains	2005	2043	39	102	\$10,109	Yes	Yes
Petaluma	Roadway upgrades to drainage, lighting and undergrounding utilities	2004	2020	25	227	Com - \$33,697 Res - \$636	Yes	Yes
Petaluma	Roadway upgrades to sidewalks, drainage, lighting and undergrounding utilities	2004	2017	20	185	\$7,206	Yes	Yes
City of Cotati	Wetlands & salamander habitat mitigation	2003	2032	30	53	Com - \$755,884 Res - \$12,692	Yes	Yes
Petaluma	Construct new bridge, replace old bridge, underground utility improvements	2001	2019	25	8	\$399,250	Yes	Yes

Notes:

- (1) First year on roll for Refunded, Reassessed or Consolidated Bonds
- (2) Parcels on Tax Roll for most recent year
- (3) Comm=Commercial Res=Residential Bulk=Undivided parcels with multiple assessments
- (4) Based on majority vote of property owners

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Regulator Claim #6: “First liens for such loans represent a key alteration of traditional mortgage lending practice. They present significant risk to lenders and secondary market entities, may alter valuations for mortgage-backed securities and are not essential for successful programs to spur energy conservation. While the first lien position offered in most PACE programs minimizes credit risk for investors funding the programs, it alters traditional lending priorities.”

PACE Response:

All land secured financing districts – including PACE – place a senior tax/assessment lien on properties that receive a benefit from the financed improvement. Nationwide, more than 37,000 special assessment districts already exist and are a standard feature of the property appraisal, underwriting and disclosure process. With PACE, only assessments in arrears at the time of foreclosure – not the full amount – are paid before the mortgage, greatly limiting senior lien exposure risk.

Major protections for existing mortgage lenders:

1. **Cash flow positive:** PACE financed retrofits target cash flow positive savings in year 1. The Administration agreed to require that homeowners target retrofits where the savings in year 1 would exceed the annual assessment – such that the homeowner’s cash flow would improve. Note: Sonoma county, the largest PACE county in our nation, is experiencing tax delinquencies on PACE homes that is 60% below non-PACE homes – a testament to the potential of PACE to benefit all stakeholders, including existing mortgage lenders.
2. **Non-acceleration:** PACE’s senior lien status is limited to past due payments – FHFA expressed concern that in a foreclosure the PACE lien gets paid before the mortgage. This risk was cured by requiring that PACE programs only permit past due PACE payments when a home is in foreclosure (typically 1 year of payments out of a total of 15-20 years) to be paid senior to the existing mortgage. The remaining PACE balance and future payments are assumed by the new home purchaser. This modification reduced PACE senior lien estimated exposure to less than \$200 per home on a portfolio of homes.
3. **Additional DOE Protections:** Existing mortgage lenders are further protected by U.S. Department of Energy underwriting guidelines that limit PACE financing to 10% of a property’s assessed value; property owners with equity in their properties, a history of current property tax and mortgage payments; and, to property improvements with a positive return on investment.

FHFA/Regulator Infringement: Claims & Factual Response cont'd

Regulator Claim #7: “Efforts are just underway to develop underwriting and consumer protection standards as well as energy retrofit standards that are critical for homeowners and lenders to understand the risks and rewards of any energy retrofit lending program. However, first liens that disrupt a fragile housing finance market and long-standing lending priorities, the absence of robust underwriting standards to protect homeowners and the lack of energy retrofit standards to assist homeowners, appraisers, inspectors and lenders determine the value of retrofit products combine to raise safety and soundness concerns.

PACE Response:

On May 7, the U.S. DOE promulgated robust and prudent underwriting and consumer protection standards that lenders and local governments are using to limit risk and protect homeowners, including quality assurance and anti-fraud measures as well as strong underwriting standards that ensure PACE financing is only offered to homeowners capable of paying the special assessment. These protections were developed in concert with HUD, NEC, OMB, CEQ, and the White House.

First liens – common to all types of special assessments – have not historically disrupted housing markets; there is no evidence to suggest that first liens related to PACE financing would do so.

In its statement, FHFA directed Fannie Mae and Freddie Mac to, among other things, “adjust loan-to-value ratios to reflect the maximum permissible PACE loan amount available to borrowers in PACE jurisdictions” and ensure “that loan covenants require approval/consent for any PACE loan.”

Existing U.S. DOE PACE guidelines limit PACE financing to 10% of a property’s assessed value, a conservative limit that protects both property owners and lenders.

U.S. DOE guidelines already state that mortgage holders should receive notice when residential property owners fund improvements using a PACE assessment.

Summary

- **Rapid Nationwide Adoption of PACE Districts:** In two years, 22 states – red and blue - adopt PACE enabling legislation. States recognize unique benefits to homeowners, lenders, municipalities and our nation. PACE recognized as the long sought financing solution for retrofitting our nation’s homes and buildings.
- **July 6th, 2010 Regulators Block State Programs:** FHFA & OCC Issued Statements that effectively shut down PACE pilot programs across the nation.
- **Regulators Refuse to Co-Architect National Pilot Program:** PACE stakeholders and bipartisan leadership repeatedly attempt to engage in productive dialogue with regulators. These discussions produced no positive results.
- **Legislation:** Congress, which chartered Fannie Mae and Freddie Mac, and which established FHFA & OCC, must quickly intervene to pass legislation that reasserts the right of state and local government to form special assessment districts to promote clean energy programs and restore the promise of PACE.

Appendix

1. Paul Hastings Legal Opinion: “A White Paper” [link](#)
2. Bloomberg Law Reports Article..... [link](#)
3. White House Best Practice Policy Framework..... [link](#)
4. Department of Energy Guidelines for Pilot PACE Programs..... [link](#)
5. NY Times Article..... [link](#)
6. PACE Lien Immateriality..... [link](#)
7. June 23rd PACE Letter to FHFA..... [link](#)
8. July 6th Regulator Announcements..... [link](#)

Please visit www.pacenow.org for additional information