

Congress of the United States

Washington, DC 20515

April 20, 2011

Mr. Edward DeMarco, Acting Director
Federal Housing Finance Agency
1700 G St., NW Fourth Floor
Washington, DC 20552

Dear Mr. DeMarco:

Property Assessed Clean Energy (PACE) programs have enormous potential to create local jobs and stimulate private investment in energy efficiency and renewable energy. But when the Federal Housing Finance Agency (FHFA) issued its July 6, 2010 statement on PACE, the agency stifled this promising local government innovation. We disagree with the statement and are writing to solicit your specific concerns with PACE programs.

While the experience with PACE programs has thus far been limited (approximately 2,000 completed projects and PACE financings to date), the results do not seem to support FHFA's claim that PACE assessments pose "significant safety and soundness concerns." There has been just one reported default on a PACE property – and no indication that the PACE lien caused the default. Further, in those jurisdictions with PACE programs, the rate of delinquent property tax payments on PACE properties is significantly lower than on properties without PACE liens.

Additionally, as you are undoubtedly aware, twenty-four (24) state legislatures and governors have enacted laws enabling their local government jurisdictions to create PACE programs. Those state laws declared that PACE assessments have a valid public purpose. In its July 6, 2010 statement, FHFA asserted that PACE assessments are "loans," and thus essentially overruled state and local laws in 24 states.

We are currently preparing legislation that will allow state and local governments to establish and run PACE programs, provided they have clear protections for lenders and consumers. As we do so, we would like to ensure that we understand FHFA's concerns with PACE.

Please provide answers to some specific questions:

- What data or financial modeling serves as the basis for FHFA's claim that PACE programs pose significant safety and soundness concerns?
- What is the legal basis for FHFA's assertion that PACE assessments are "loans," rather than valid special tax assessments with a public purpose?
- Did FHFA have specific concerns with H.R. 5766 (111th) and, if so, what are the specific concerns?

Because PACE programs hold such promise for local job creation, we are interested in moving forward with legislation as quickly as possible. We look forward to your response at your earliest convenience.

Sincerely,


Dan Lungren
Member of Congress


Mike Thompson
Member of Congress


Nan Hayworth
Member of Congress