

# PACE

## PROPERTY ASSESSED CLEAN ENERGY

Update, New Federal Legislation, and a Call to Action

July 14, 2011

**PACENow**

# AGENDA

## Topic

## Page

## Speakers

- **Brief Recap of PACE**
- **FHFA, OCC July 2010 Statements and Response**
  - **House, Senate bills**
  - **6 Lawsuits vs. FHFA**
- **Re-framing PACE after Nov 2010**
- **PACE Act 2011: Bi-Partisan Bill**
- **Call to Action**

### **David Gabrielson**

Executive Director

PACENow

[david.pacenow@gmail.com](mailto:david.pacenow@gmail.com)

### **Cliff Staton**

Vice President of Marketing

Renewable Funding

[cliff@renewfund.com](mailto:cliff@renewfund.com)

# 2008 TO 2011: PACE GAINS RAPID BIPARTISAN ACCEPTANCE

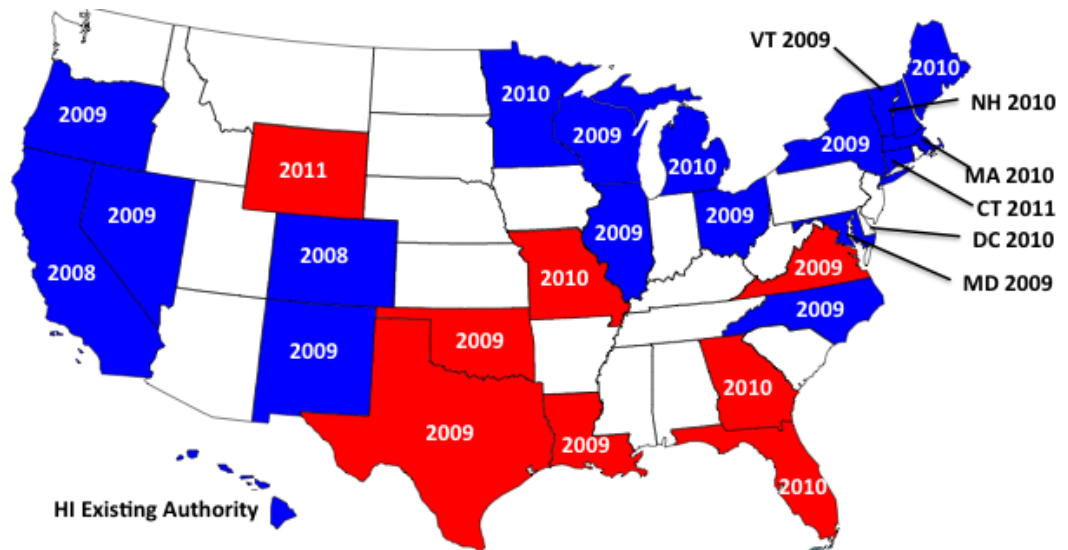
**Adam Hasner**, Florida State Republican House Majority Leader: “PACE provides a no-cost to taxpayers, no-mandate, consumer opt-in approach to bringing clean energy technology to homeowners and businesses. PACE will help create jobs for Floridians at a critical time.”, 2010

**Michael Bloomberg**, Mayor of New York City: “A New York City PACE program to make energy efficiency retrofits will create jobs and reduce energy costs.”, 2010

**Jerry Sanders**, Republican Mayor of San Diego: “I am honored to be one of our nation’s first Mayors to support PACE. San Diego plans to derive strong long term advantages through PACE, and we urge the rest of our nation, on a bipartisan basis, to join us.”, 2010

**Bill Ritter**, Democratic Governor of Colorado: “PACE is already creating economic opportunity, energy savings, and environmental benefits.”, 2010

## 27 States Pass Valid PACE Enabling Laws



State Majority (REP / DEM) when PACE Legislation was Passed

## Regulatory Overreach – Programs Blocked in 27 States

**FHFA, OCC, Fannie Mae and Freddie Mac block PACE, claiming:**

- ✓ **PACE is Risky:** Senior lien status creates “safety and soundness” concerns for the mortgage industry
- ✓ **Assessments Ruled Invalid:** PACE is “different” from other public assessments

**Regulators ignored:**

- ✓ **PACE Reduces Risk to Fannie/Freddie:** Actual PACE Program data show dramatically reduced risk to GSEs and lenders
- ✓ **States’ Rights:** 27 States cite public purpose in passing valid enabling laws
- ✓ **Centuries of Precedent:** 37,000+ assessment districts now operate efficiently nationwide

# PACE COMMUNITY RESPONDS

## 2010 Legislation

Legislation introduced in the House and Senate by Democratic sponsors

- Outcome:
- ✓ Flurry of activity
  - ✓ No meaningful bipartisan support
  - ✓ Fall elections / politics kill hope of passage

## Litigation is Ongoing

Federal District Courts in NY, CA, and FL hear suits filed by State of California, local governments, and NGO's charging unwarranted and illegal regulatory over-reach

- Suit in 9<sup>th</sup> Circuit – Northern California – April 2012

# PACE IN 2011: NEW BIPARTISAN MESSAGE WITH BROAD APPEAL

## Local Programs for Jobs, Economic Growth, Energy Security w/ No Federal Spending

<b>Permanent Jobs</b>	Nationwide, permanent, and across a range of skills
<b>Economic Growth</b>	No Federal spending - \$10 million in <u>private capital market spending</u> creates: <ul style="list-style-type: none"><li>✓ 150 jobs</li><li>✓ \$25 million economic output</li><li>✓ \$2.5 million federal, state &amp; local taxes</li></ul>
<b>Budget Enhancing/Deficit Reducing</b>	PACE generates federal, state, and local tax revenue with no impact on credit
<b>No Taxes/Federal Subsidies</b>	PACE programs stand on their own
<b>Private Market Capital</b>	Funding from the broad capital markets, not taxpayers
<b>Voluntary</b>	Not another government mandate
<b>Reduced GSE Footprint/Losses</b>	PACE reduces losses - promotes market driven solutions for our nation's mortgage industry
<b>Lower Default Rates</b>	PACE programs <u>reduce</u> mortgage default rates
<b>Lender Protection</b>	PACE protects mortgage lenders <ul style="list-style-type: none"><li>✓ Immediate cash savings help owners pay mortgages</li><li>✓ Cutting energy use is a permanent hedge against rising fuel costs and price shocks</li><li>✓ Non-acceleration limits lender exposure just to payments in arrears</li><li>✓ More efficient buildings are worth more, so lender collateral is enhanced</li></ul>
<b>Cut Foreign Oil</b>	More energy independence without taxes or regulation
<b>Cost Avoidance</b>	Reduced need for power plants and transmission systems
<b>Local Focus</b>	Community programs are much more effective than federal or state

# PACE PROGRAM DATA SHOWS PACE REDUCES LENDER RISK

## Mortgage Default Rate with PACE is 1/30 That of Non-PACE Homes

- Only 2 Defaults in 2,565 PACE homes vs 82 on same number of non-PACE homes <sup>(1)</sup>
- GSE Loss Reduction – Early PACE results show very low defaults (0.1%). Reducing default rates from 3.2% to 2.0% would reduce GSE losses by \$1,400 per home <sup>(4)</sup>

PACE Program Data			Defaults			
Program <sup>(2)</sup>	Homes	\$ Mil	Homes	Program <sup>(2)</sup> %	County <sup>(3)</sup> %	
Babylon	403	3.6	0	0.0	vs	5.4
Boulder	632	10.1	1	0.2	vs	1.3
Palm Desert	240	5.5	0	0.0	vs	3.8
Sonoma	1,290	34.5	1	0.1	vs	3.3
<b>Total</b>	<b>2,565</b>	<b>\$53.8</b>	<b>2</b>	<b>0.1%</b>	vs	<b>3.2%</b>

Footnote: <sup>(1)</sup> Countywide Default Rate (3.2% x 2,565 PACE Program Homes = 82 Expected Defaults)

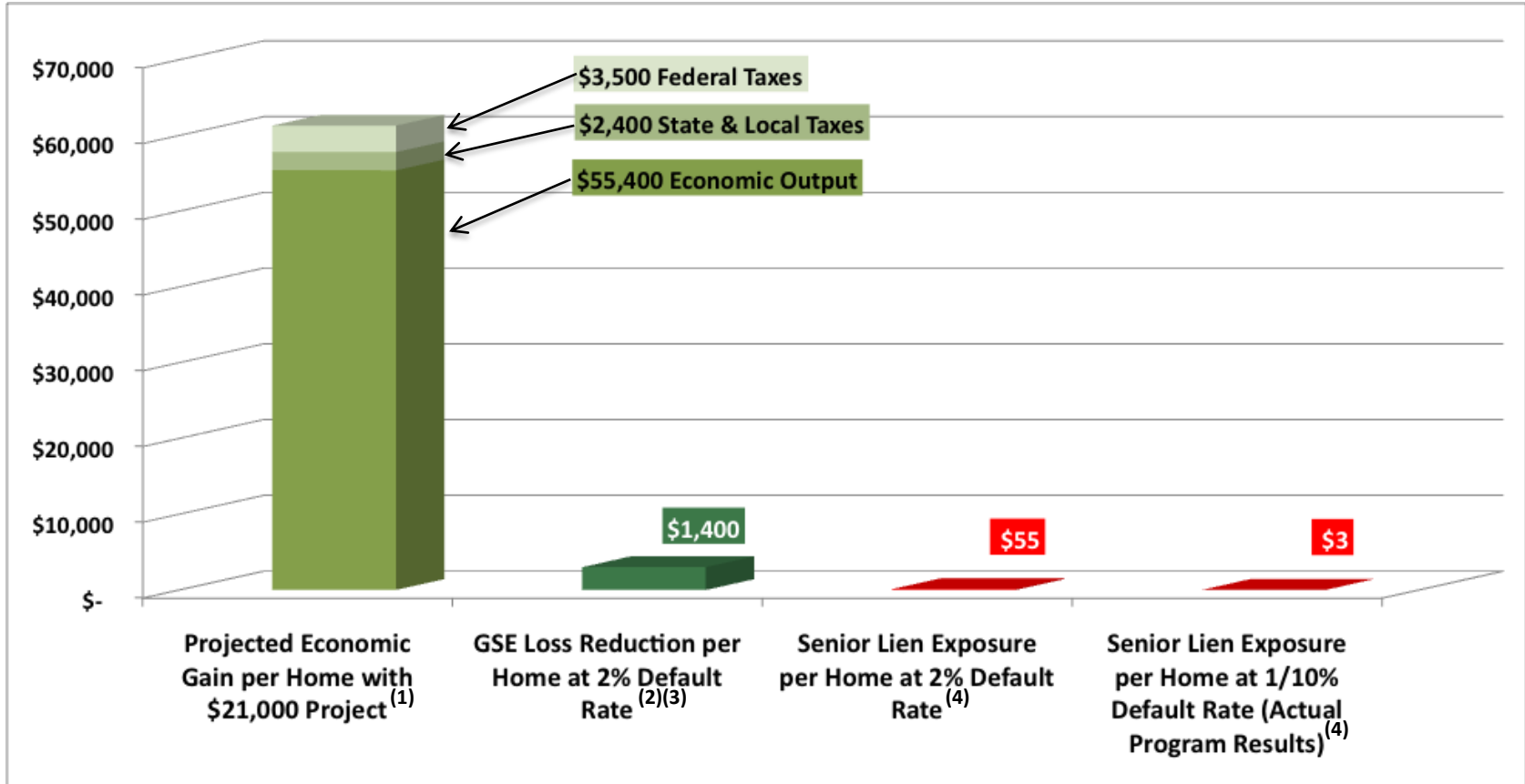
Source: <sup>(2)</sup> Program Administrators

<sup>(3)</sup> McDash Analytics, LLC

<sup>(4)</sup> Assumes prime agency loans, average mortgage size \$240,000, average severity in default 50%  
Core Logic, Amherst Securities

# PACE CREATES: JOBS, REVENUE ENHANCEMENT & GSE LOSS REDUCTION

## Per Home PACE Gains to Economy and GSEs Dwarf De Minimis Senior Lien Exposure



- Source: (1) ECONorthwest study “Economic Impact Analysis of Property Assessed Clean Energy (PACE)”, April, 2011  
(2) CoreLogic, Amherst Securities Group LP report “Amherst Non-Agency Mortgage Market Monitor”, June, 2011  
(3) Assumes prime agency loans, \$240,000 average mortgage size, 50% average severity in default  
(4) Program Administrators – existing Program data shows defaults are currently less than 1%

# BI-PARTISAN LEGISLATION TO RESTORE PACE

## **PACE Assessment Protection Act of 2011**

### **Primary Sponsors:**

**Hayworth (NY-19), Thompson (D-CA1), Lungren (R-CA3)**

- 1) Undo the damage:** Rescinds 2010 guidance from FHFA, OCC, Fannie, Freddie and affirms validity of assessments. Prohibits discrimination against homeowners and communities with PACE.
- 2) Resolve the legal question:** Defines a PACE assessment as an “assessment,” not a “loan.”
- 3) Limit (eliminate) risk to Fannie/Freddie:** Establishes national program standards: underwriting criteria, consumer protections, qualifying improvements, qualifying contractors

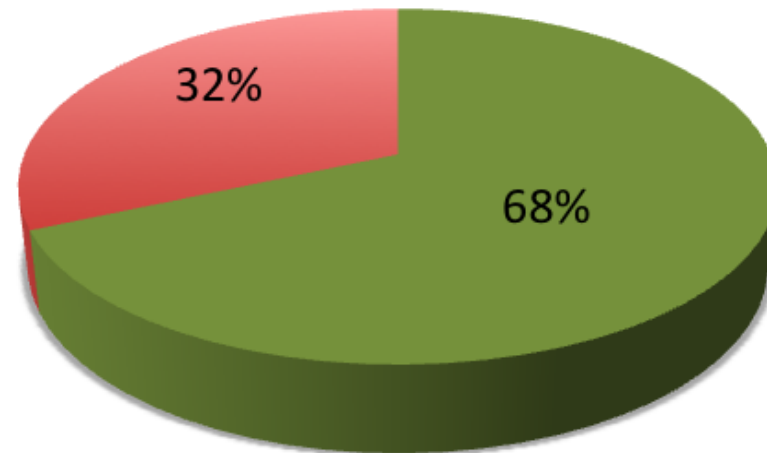
# UNDERWRITING CRITERIA LIMIT (ELIMINATE) RISK TO F/F

## PACE Legislation Requirements

- Homeowner must have at least 15% positive equity.
- Projects capped at 10% of home value.
- Homeowner must have solid property tax payment history.
- PACE lien does not accelerate in event of default.
- Energy assessment must demonstrate projects pay for themselves.

68% of US Homes have > 15% Positive Equity

Source: McDash Analytics LLC



■ More than 15% - YES PACE ■ Less than 15% - NO PACE

## TIMELINE

**Now until Tues July 19:** Recruit “original” co-sponsors prior to the bill’s introduction.

**Wed July 20:** Lungren-Thompson-Hayworth press conference to announce the introduction of the bill.

**Thursday July 21:** House assigns a bill number.

**Wed July 20 on:** Recruit co-sponsors to generate momentum and support.

**Fri Aug 6 – Wed Sept 7:** Congress adjourns for August recess.

# FOCUS ON KEY HOUSE REPUBLICANS

## Financial Services Committee - Subcommittee on Capital Markets and GSEs

Spencer Bachus, AL – Committee Chair

**Jeb Hensarling, TX**

**Peter King, NY**

**Ed Royce, CA**

**Frank Lucas, OK**

**Ron Paul, TX**

**Donald Manzullo, IL**

**Walter Jones, NC**

**Judy Biggert, IL**

**Gary Miller, CA**

Shelley Capito, WV

Scott Garrett, NJ – Subcommittee Chair

**Randy Neugebauer, TX**

**Patrick McHenry, NC**

**John Campbell, CA**

**Michele Bachmann, MN**

**Thaddeus McCotter, MI**

**Kevin McCarthy, CA** (House Majority Whip)

**Steve Pearce, NM**

**Bill Posey,**

Mike Fitzpatrick, PA

**Lynn Westmoreland, GA**

**Blaine Luetkemeyer, MO**

**Bill Huizenga, MI**

**Sean Duffy, WI**

**Nan Hayworth, NY**

**Jim Renacci, OH**

**Robert Hurt, VA**

**Bob Dold, IL**

David Schweikert, AZ

**Michael Grimm, NY**

**Francisco Canseco, TX**

**Steve Stivers, OH**

Stephen Fincher, TN

Members from PACE enabled states are **BOLD**

# CALL TO ACTION

- Focusing our advocacy on the House at this stage
- Visit, call, email or mail your Representative
  - Visit <http://pacenow.org/blog/take-action-to-save-pace/> for information and resources you can use to ACT Today. Draft letters are available here.
  - You can reach your Member of the House by calling the US Capitol Switchboard – [202-224-3121](tel:202-224-3121)
  - Move your organization, company, City Council to move PACE to the top of their legislative priorities, and have your lobbyist advocate for you as well
- Have begun Senate meetings. Will be back in touch on Senate strategy after we develop momentum in House.

# APPENDIX – LINK TO DOCUMENTS

1. [Proposed PACE Legislation \(draft HR Bill\)](#)
  - ✓ <http://pacenow.org/blog/wp-content/uploads/PACE-HR-Bill-Final-Language-7-12-111.pdf>
2. [Making the Case for PACE Legislation](#)
  - ✓ <http://pacenow.org/blog/wp-content/uploads/Making-the-Case-for-PACE-Legislation.pdf>
3. [PACE One Page Summary](#)
  - ✓ <http://pacenow.org/blog/pace-one-page-primer/>
4. [PACENow Website](#)
  - ✓ <http://www.pacenow.org>
5. [Legal Analysis on PACE Constitutionality](#)
  - ✓ [http://pacenow.org/documents/PHJW%20PACE%20White%20Paper%205.28.10%20\(final\).pdf](http://pacenow.org/documents/PHJW%20PACE%20White%20Paper%205.28.10%20(final).pdf)
6. [ECONorthwest Study on PACE Economic Gains](#)
  - ✓ <http://pacenow.org/blog/wp-content/uploads/PACE-Econometric-Study-by-ECONorthwest-for-PACENow-5-4-11.pdf>
7. [FHFA July 6<sup>th</sup> Statement](#)
  - ✓ <http://pacenow.org/blog/wp-content/uploads/2010-07-06-FHAF-Statement.pdf>
8. [Specific Consumer Protections](#)
  - ✓ <http://pacenow.org/blog/wp-content/uploads/PACE-Consumer-Lender-Protections.pdf>
9. [FHFA Claims and Factual Responses](#)
  - ✓ <http://pacenow.org/blog/wp-content/uploads/PACE-FHFA-Concerns-Responses.pdf>
10. [PACE Frequently Asked Questions](#)
  - ✓ <http://pacenow.org/blog/pace-frequently-asked-questions/>