

111TH CONGRESS
2^D SESSION

S. 3642

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.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2010

Mrs. BOXER (for herself, Mr. MERKLEY, Mrs. GILLIBRAND, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The PACE Assessment
5 Protection Act of 2010”.

1 **SEC. 2. TREATMENT OF PACE PROGRAMS BY FANNIE MAE**
2 **AND FREDDIE MAC.**

3 (a) ADOPTION OF UNDERWRITING STANDARDS.—
4 Not later than the expiration of the 60-day period that
5 begins upon the date of the enactment of this Act, the
6 Federal National Mortgage Association and the Federal
7 Home Loan Mortgage Corporation shall adopt under-
8 writing standards that are consistent with the Guidelines
9 for Pilot PACE Financing Programs issued on May 7,
10 2010, by the Department of Energy. Liens or other prop-
11 erty obligations that secure property taxes or assessments
12 under a PACE program and are consistent with such
13 standards shall be considered to comply with the Uniform
14 Instruments of such Association and Corporation and
15 shall not constitute a default on an existing mortgage or
16 trigger the exercise of lender's remedies for a property
17 with such a lien. With respect to a property that meets
18 the underwriting criteria of the Association and the Cor-
19 poration without consideration of the PACE program lien,
20 the Association and the Corporation shall not require re-
21 payment of a PACE program tax or assessment in order
22 for a property owner to finance, refinance or transfer the
23 property. The underwriting standards shall provide that,
24 in the event that a tax or assessment under a PACE pro-
25 gram is delinquent, only the unpaid delinquent amount

1 along with applicable penalties, interest and costs will be
2 subject to foreclosure and not the entire amount.

3 (b) PROHIBITION OF DISCRIMINATION.—The Federal
4 Housing Finance Agency, the Federal National Mortgage
5 Association, and the Federal Home Loan Mortgage Cor-
6 poration, and all Federal agencies and all entities char-
7 tered under Federal law shall not discriminate against
8 communities implementing or participating in a PACE
9 program, including by prohibiting lending within the com-
10 munity or requiring more restrictive underwriting criteria
11 for properties within the community.

12 (c) DEFINITION OF PACE PROGRAM.—For purposes
13 of this section, the term “PACE program” means a prop-
14 erty assessed clean energy program under which a State
15 or political subdivision of a State levies taxes or assess-
16 ments on residential, commercial, agricultural, and other
17 real property to finance the installation of renewable en-
18 ergy and energy efficiency improvements.

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