

7/14 – PACE Webinar – Audience Q&A

"Q: 2 Questions. Do you need an appraisal? Are you planning to do commercial and will you still need consent from first mortgage holder?

A: Q 1) You do not need an appraisal. It will be up to the local government to establish how it wants to determine the “estimated value” of the home.

Q 2) The bill addresses commercial PACE, and commercial PACE programs are moving forward now, with Los Angeles and San Francisco planning launches soon and other programs in earlier stages of implementation in Washington, D.C., the greater Cleveland metropolitan area, Ann Arbor, and even smaller cities like Northampton (MA). Commercial PACE programs do require consent from existing first mortgage holders.

Q: Any co-sponsors from Florida yet?

A: At this time, there are no co-sponsors other than Hayworth, Lungren and Thompson.

Q: Is there any bypass for the 10% cap, i.e. the energy audit still shows positive benefit? What proof of value will the 10% cap be based on?

A: The local government must establish a process for determining the “estimated value” of the home.

Q: How can we get a copy of the draft legislation?

A: It is available at: www.pacenow.org

"Q: Can PowerPoint slides be printed?

A: Yes, they are available for download at www.pacenow.org

"Q: Clarification: 10% financeable, can homeowner contribute to increase total project cost above the 10% cap as long as financing remains at 10% level?

A: The bill does not address what a homeowner might contribute above the amount that is financed through the special tax assessment. We see no obstacle to a homeowner financing projects that exceed the 10% cap in other ways.

Q: How are you determining home value? Are you requiring an appraisal?

A: See above. The bill states: “The total amount of PACE assessments for a property shall not exceed 10 percent of the estimated value of the property.” It does not require an appraisal, but allows the local government to establish the process for determining the “estimated value” of the property.

Q: What energy assessment methodology is proposed in the bill?

A: There is no methodology proposed. The bill states: "For clean energy improvements and energy conservation and efficiency improvements, an audit or feasibility study performed by a person who has been certified as a building analyst by the Building Performance Institute or as a Home Energy Rating System (HERS) Rater by a Rating Provider by the Residential Energy Services Network (RESNET); or who has obtained other similar independent certification shall have been commissioned by the local government or the property owner." The audit or feasibility study must: 1) identify recommended measures; 2) estimate potential cost savings; and 3) provide the overall difference in annual energy costs with and without the recommended improvements.

Q: Is the 10% cap total project cost or net any rebates?

A: The bill states: "The total amount of PACE assessments for a property shall not exceed 10 percent of the estimated value of the property."

"Q: Could state legislation establishing a PACE program provide for subordination of that lien to home mortgages?

A: Yes, some states have passed laws with subordinate PACE liens.

"Q: Do we have an indication as to how many congressmen will sign on, especially how many from the financial services committee?

A: Not yet.

"Q: Do we need Federal approval when Sonoma County, CA, Palm Spring, CA and others are already active with their PACE program? It seems that local and state governments have the judicial power similar to Mello-Roos taxes when building a local school...

A: You should contact those local programs to learn the conditions under which they are operating.

Q: What does the energy assessment look like or require?

A: The bill states: "For clean energy improvements and energy conservation and efficiency improvements, an audit or feasibility study performed by a person who has been certified as a building analyst by the Building Performance Institute or as a Home Energy Rating System (HERS) Rater by a Rating Provider by the Residential Energy Services Network (RESNET); or who has obtained other similar independent certification shall have been commissioned by the local government or the property owner." The audit or feasibility study must: 1) identify recommended measures; 2) estimate potential cost savings; and 3) provide the overall difference in annual energy costs with and without the recommended improvements.

"Q: Do you all have thoughts about storm water reduction activities for metro residences and commercial properties to reduce new and upcoming storm water generation fees imposed by local municipalities and utility authorities?

A: No.

Q: Do commercial properties come under PACE?

A: Yes, the Bill affords protections to commercial PACE programs as well.

"Q: Have Fannie/Freddie, et al been at the table as the bill has been developing? I realize they are not our favorite entities right now, but having their input into the criteria will probably help in passage. So, is this a cooperative solution or an end run around a stalemate?

A: Responding to requests from the Bill's authors (Hayworth, Lungren, and Thompson) FHFA has commented on the legislation. Fannie/Freddie have not been asked to engage in the process.

"Q: How are the requirements different for commercial properties?

A: The major differences are that in commercial PACE, the bill 1) requires authorization from the first mortgage holder and 2) there is no energy audit required.

"Q: How can we get a copy of the legislation?

A: www.pacenow.org

Q: Does this law require lender approval?

A: It requires authorization from the first mortgage holder for commercial PACE financing. For residential, it requires the homeowner to provide notice of the PACE financing.

Q: Does federal legislation have the power to dictate what states must do with their assessment laws?

A: No.

Q: Is there a states rights issue here where the federal government does not have the right to determine state assessment laws?

A: Yes.

Q: What requirements are in the legislation regarding commercial PACE?

A: The main requirement is that the authorization of the first mortgage holder is required prior to approval for PACE financing.

Q: Are there any specific requirements for determining the value of the property?

A: No, that is left to the state and local governments' discretion.

"Q: How do the municipalities fund PACE programs? Is it a typical muni bond transaction or other?

A: It varies. Some have funding in their treasuries. Some have adopted a pooled bond approach. Others have secured funding from banks for the upfront costs of the projects.

"Q: I had to join late, will these slides be available?

A: Yes, they are available at www.pacenow.org

"Q: I live in Washington State, belong to an organization called Local 20/20 in an action group known as Energy Action. We are interested in the PACE program and would like to know the best way to get our state involved in this effort.

A: PACE requires state legislation in order to enable the local government to establish a PACE assessment district. Examples of other state legislation can be found on the www.PACENow.org website in the Library section. Feel free to contact us at PACENow@gmail.com

Q: How do you verify vesting and existing liens against the property?

A: As a step in qualifying a property owner for PACE financing, the local government should secure the title report, which provides this information.

"Q: I tuned in late, so sorry if you already covered this. On a related topic, what's the status of the Calif. AG's et al lawsuit?

A: It is scheduled to come to trial in April 2012.

"Q: I understand that the PACE Assessment Protection Act will be introduced next week. Is the draft on the pacenow.org website the same or is there a more recent version that will be introduced?

A: The most recent version is now on the PACENow.org website

"Q: If appraisals are not required and real estate values are as unstable as they currently are (and still trending downward in many areas), how can we know who has positive equity of 15% in their properties?

A: The federal legislation does not require an appraisal. It leaves the method of estimating the value of the property up to the state/local government. The state and/or local government can use one of several methods to determine the "estimated value." For example: it could require an appraisal; it could use the assessed value; it could use a desktop appraisal; it could use a "drive-by appraisal."

"Q: If payment at foreclosure is limited to tax arrearage only, how much exposure does that create for local governments? If a \$300k home has a \$30k tax lien, and only \$3000 has been paid, how does the local government recover the other \$27,000?

A: The new owner will assume property tax payments for the PACE lien, in the same way they do for other property tax assessments.

Q: What happened when the Bill was brought forward last year?

A: It died at the end of the session.

Q: Our discussions with banks and lending institutions up until now have uniformly shown reluctance to issue energy efficiency loans at interest rates that drive demand. Have you engaged banks and conventional lenders for their response to the Bill?

A: Although many banks were quite supportive of PACE prior to the FHFA July 2010 guidance, they have generally been reluctant to be publicly supportive of PACE since that time.

"Q: Is there any more information on the concept of a national JPA coordinating all PACE programs for the various states?

A: Not that I am aware of. We are focused on achieving a legislative solution that will restore PACE.

"Q: Is there data on the PACE website outlining the commercial PACE programs around the country which were mentioned?

A: Information on commercial programs in development will be posted on the PACENow website when specific policies and procedures are finalized.

"Q: Our state now has PACE as a junior lien; if passed, would the federal law return it to senior lien status in such states?

A: No.

Q: What other prospects have you approached? Steve Israel (D/NY2) comes immediately to mind as he sponsored PACE bills in the past. His neighbor Peter King has consistently voted against any related legislation, such as Home Star.

A: Republican leadership is absolutely critical. We have spoken with many Republican and Democratic offices that are sympathetic or supportive. They now need to hear from their constituents about the importance of PACE.

"Q: I'm interested in what happens without the legislation both now and in the future, i.e. how are these states still going ahead with PACE despite actions of Fannie/Freddie?

A: It is best to contact the program administrators in Sonoma County, California; Babylon, New York and Palm Desert, California.

"Q: Status of provision regarding relative position of seniority of mortgage vs PACE?

A: The bill affirms that the PACE lien is senior to the mortgage.

Q: Will this presentation be posted on PACENOW?

A: Yes.

"Q: tell us the NAME of the bill

A: PACE Assessment Protection Act of 2011

"Q: that answer gave no specifics about what in the bill helps commercial PACE

A: The bill requires that the Office of the Comptroller of the Currency rescind its guidance on commercial PACE and allow commercial PACE to go forward. Further, the bill lays out some requirements specifically for commercial PACE agreements. Most importantly, it requires authorization from the first mortgage holder.

Q: Please discuss commercial PACE. How can owners of large commercial buildings deploy PACE?

A: San Francisco, Los Angeles and the Cleveland metro area are all working to launch commercial PACE programs that will allow owners of large (and small) commercial buildings to finance energy efficiency retrofits through PACE.

"Q: the 10pct cap is limiting for homes valued in the 150k to 250k value to achieve the best energy efficiency and to reach net zero. any chance this 10pct cap can be raised?

A: The 10% cap is unlikely to be changed. It is recognized that PACE financing may not be sufficient to complete deep energy retrofits capable of making buildings attain net zero energy use.

"Q: The bill doesn't have a number yet, but does it have a name?

A: The bill will have a number within a day of being introduced. In the meantime it can be referred to by name as "The PACE Protection Act of 2011"

"Q: This proposed legislation caps improvements at 10% of assessed property value. VT recently passed ""PACE 2.0"" legislation in 2011 (PACE 1.0 passed in 2009), and it caps improvements at 15%. Will the federal PACE law preempt the VT law, capping improvements at 10%

A: Protections afforded to property owners and programs by the Act require adherence to the requirements established by the Act. Program administrators in

Vermont should be consulted to determine how the Act would impact their program.

"Q: we should explain what OCC is as this audience may be aware of what FHFA is but not OCC, and how they can affect commercial PACE

A: OCC is the Office of the Comptroller of the Currency, which is part of the U.S. Treasury Department. The OCC's primary mission is to charter, regulate, and supervise all national banks. In that capacity, its July 6, 2010 statement offered certain cautions to banks in relation to PACE commercial assessments. Their statement can be found in the Library section at www.PACENow.org.

"Q: what are the concerns being raised by Republicans on Financial Services?

A: Many members of Congress, including Republicans on the Financial Services Committee, are concerned about taxpayer exposure to losses experienced by Fannie Mae and Freddie Mac and any extent to which PACE could add to them.

"Q: What does GSE Stand for?

A: Government Sponsored Enterprises, which include Fannie Mae and Freddie Mac.

Q: Vermont passed a law to address these issues locally. Will this supercede the Vermont law? If not, will Vermont need to modify its law to align with this one so FM/FM don't complain about differing standards?

A: Program administrators in Vermont should be consulted directly to understand how the Act might affect their program.

"Q: What efforts will be taken to ensure a DC presence for the lobbying of the bill? Will there be a DC-based lobbyist or team working the bill?

A: PACE coalition advocates welcome offers of assistance in advocacy for the Act. Please contact Cliff Staton directly about this: cliff@renewfund.com

"Q: What if this legislation is overwhelmed by the current debt ceiling discussion? As a worst case scenario, would it be taken up in the Fall or Spring?

A: We hope that the Act will be given full attention by members of the House now, and later by the Senate. It is difficult to predict how other issues before Congress will affect consideration of the bill.

Q: Yes, does the cost cap supersede existing state legislation?

A: One would expect that protections afforded by the Act will require conformance with the requirements that Congress incorporate within it.

Q: Is it true that PACE is blocked for residential but not commercial properties?

A: Most municipalities that were considering PACE residential programs have halted development and implementation, though not all. Fannie Mae and Freddie Mac do not hold commercial mortgages, so their determinations in 2010 and those of the FHFA do not affect commercial properties. The OCC statement does not ban commercial PACE programs, in part because consent is required from existing mortgage lenders.

Q: Will this presentation be archived for future viewing and will the presentation materials be available on a website soon?

A: yes. both recorded webinar and ppt will be available at www.pacenow.org and on <http://votesolar.org/resources/get-some-sun-solar-webinars/>

"Q: What is Cliff's title?

A: Vice President at Renewable Funding. check their website for details

Q: Also--if we may have resources to bring to bear, is there an email address for Cliff or Adam?

A: cliff@renewfund.com

"Q: what is FHA's position on this? Does this meet their concerns allowing banks to securitize a mortgage with a PACE debt?

A: I assume you meant FHFA? It is unlikely that they will ever agree that PACE assessments in arrears should have a senior lien to mortgages in the event of a default. The Act will require that they accept that PACE assessments are valid.

Q: What is the Obama administration's view on this? What does Dr. Chu think? Are they backing it and how energetically if so?

A: The Obama administration and Department of Energy were early and enthusiastic supporters of PACE.

"Q: What is the nature of the warranties for systems installed, and are their bonding requirements for installers to ensure homeowners have recourse if systems do not run correctly, and to ensure we avoid fly-by-night installers?

A: The Act does not address warranties for systems installed. It does require that "improvements must be made by a contractor or contractors, determined by the local government to be qualified to make PACE improvements. A local government may accept a designation of contractors as qualified made by an electric or gas utility or another appropriate entity. Any work requiring a license under applicable law shall be performed by an individual holding such a license."

"Q: What is the status of the other cases in court besides the one set for trial in 2012? Are we expecting anything to happen in court before legislation could be passed?

A: Separate suits filed by the Town of Babylon, NY and the National Resource Defense Council in two different Federal District Courts in New York were dismissed. It is unclear what may happen in courts in California and Florida in the coming months while legislation is being considered in Congress

Q: What is happening with assessors? Are they increasing value with energy improvements? To what extent?

A: Recent studies and anecdotal accounts support the claim that renewable energy measures increase home values. Earlier studies have shown that energy efficient homes have greater value.

Q: I understood that only the back payments were due at foreclosure ...not the whole PACE loan. Is that wrong?

A: That is correct.

"Q: What should those of us in states that do not have PACE enabling legislation (like PA) do?

A: Legislation from states that have passed PACE enabling laws can be found at www.pacenow.org and <http://www.dsireusa.org/>. Since the FHFA statement of July 6, 2010, Wyoming, Michigan and Connecticut have passed PACE laws.

"Q: What's the strategy for planting the seeds for success in the Senate and Obama Administration in anticipation of House passage?

A: A Senate strategy is being developed now that is focused on building bipartisan support. At this point though, the most important seed to be planted is to develop strong bi-partisan support for this House bill.

"Q: Where does the initial startup money come from for each municipality if not from federal funds?

A: Some programs may have existing funds, others will need to access the bond markets to provide financing for projects.

Q: Is the cap at 10% of the house value set in stone at this point? That may not cover a lot of solar projects.

A: The Act limits project size to 10% of the value of a home.

"Q: Who is speaking now? I missed the first minute and it just says ""attendee 41"" is talking.

A: David Gabrielson, Executive Director of PACENow

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"Q: Why limit the term of the PACE financing to 20 years? This is a tough constraint to make monthly payment economics work.

A: 20 years is consistent with other local property tax assessments.

"Q: will contact with senators be helpful at this stage?

A: We would ask that participants restrict their support for the bill to members of the House, pending development of a strategy for the Senate. It's not as simple as just finding a Senator willing to introduce a bill.

"Q: Will equity be calculated by including the value the energy improvements add to the home?

A: No.

"Q: Will PACE contribute to the cost of the home energy audit? I know they're pretty expensive, so that might discourage homeowners from participating.

A: State law may provide that the cost of the audit and the cost of a warranty covering the financed improvements may be included in the total amount financed.

"Q: will ppt be made available?

A: yes <http://votesolar.org/resources/get-some-sun-solar-webinars/> and at www.pacenow.org

"Q: Will states/municipalities have to rewrite/tweak their PACE laws to incorporate these protections for Fannie and Freddie?

A: They may. It became very clear early in discussions with members of the Financial Services Committee, that measures to protect lenders (including Fannie and Freddie) would be necessary for legislation to move forward.

"Q: Will the attendees on the webinar and contact information be distributed to those on the webinar?

A: No, we must respect the privacy of participants on the call.

Q: Please amplify how the lenders are protected? Is that just a function of the underwriting standards?

A: The underwriting standards are designed, absolutely, to minimize potential exposure to lenders. In addition, the bill stipulates that in the event of default, PACE assessments do not accelerate. Also, the bill requires an energy audit prior to a PACE financing, and requires that improvements pay for themselves over the course of the life of the improvement.

"Q: will the federal legislation require any additional action by the states that have PACE legislation in place?

A: Programs will need to adhere to the requirements of the Act to receive protections under it.

"Q: Will the federal legislation supersede any local legislation? I am thinking about how some local entities have programs that have acceleration or other features that caused problems for Fannie and Freddie

A: You should check with your local or state government for a determination.

"Q: Will the presentation slides be available for download after?

A: Yes. Check pacenow.org and votesolar.org

"Q: Will the presentation slides be available for download?

A: Yes. <http://votesolar.org/resources/get-some-sun-solar-webinars/>

Q: Can you go over the deadlines again? We need probably about 1.5 months to get sign off and resolutions supporting this through our Commission and City Council.

A: There are no hard deadlines. We welcome all support resolutions and hope they can be obtained as soon as possible.

"Q: Will there be specific format for the due diligence reporting that might include BEPA data or similar structured data about the property and what upgrades are being done?

A: That is not addressed in the federal legislation.

Q: Will there be any follow-up requirement to attest and disclose the actual energy savings or energy performance of the property? Transparency is a key positive outcome to drive the market

A: The legislation does not require a performance report after improvements have been made.