

Corporate & Financial Weekly Digest

Posted at 11:49 AM on July 9, 2010 by [Jeffrey M. Werthan](#)

[Federal Housing Finance Agency Warns About PACE Loans; Warning Communicated by FDIC](#)

The Federal Housing Finance Agency (FHFA), the agency that regulates Freddie Mac, Fannie Mae and the Federal Home Loan Banks, has determined that certain energy retrofit lending programs present significant safety and soundness concerns that must be addressed by its regulatees. Specifically, programs denominated as Property Assessed Clean Energy (PACE) seek to foster lending for retrofits of residential or commercial properties through a county or city's tax assessment regime. Under most of these programs, such loans acquire a priority lien over existing mortgages. The FHFA has taken the position that such loans "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."

FHFA has urged state and local governments to reconsider these programs and continues to call for a pause in such programs so concerns can be addressed. First liens for such loans represent a key alteration of traditional mortgage lending practice. While the first lien position offered in most PACE programs minimizes credit risk for investors funding the programs, it alters traditional lending priorities. 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.

The Federal Deposit Insurance Corporation considered the FHFA announcement sufficiently important to warn insured institutions (banks and savings associations) that "these programs could affect their residential mortgage lending activities and the ability to sell loans to Fannie Mae and Freddie Mac."

Click [here](#) to read the FHFA press release.

Click [here](#) to read the financial institution letter from the FDIC.

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