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# Property Assessed Clean Energy Financing Update: Federal Housing Finance Agency (FHFA) Issues Notice of Proposed Rulemaking on PACE Financing; Public Comment Sought

BY BRYAN M. STOCKTON

A federal housing regulator is seeking public comment as it initiates a rulemaking with regard to Property Assessed Clean Energy (PACE) programs.

PACE programs permit municipalities to provide financing to property owners for the purchase of energy-related home-improvements with high upfront capital costs, such as solar panels or energy-efficient windows. Homeowners repay the amount borrowed, with interest, through assessments added to their property tax bill. The programs proved popular, and about two dozen states have approved laws authorizing local governments to set up various types of PACE programs. The liens from PACE program loans run with the property and have priority over mortgages, including preexisting first mortgages. Last year, the Federal Housing Finance Agency (FHFA), which regulates Freddie Mac and Fannie Mae, warned that PACE programs present significant safety and soundness concerns and directed Freddie Mac and Fannie Mae not to purchase mortgage loans of properties with outstanding first-lien PACE obligations. Since the 2008 financial crisis, these two government-backed entities are responsible for nearly all residential mortgages, so this directive effectively froze the PACE program. Subsequent lawsuits challenged the FHFA directive. As a result of one of those lawsuits, a federal district court in California ordered FHFA to proceed with a notice and comment process to adopt guidance for mortgages that are or could be impacted by PACE programs. While FHFA is appealing, it is nevertheless proceeding with the rulemaking. Comments are due March 26. For a list of specific issues for which FHFA is seeking comment, see the [Federal Register Notice](#). The January 19, 2012 Mintz Levin/ML Strategies article “[PACE-ing in Purgatory: Outlook for Property Assessed Clean Energy Financing](#)” by Jordan Collins contains additional background on the PACE concept.

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