PACE and the Feds
Cisco DeVries | December 8, 2010

35% carbon emissions and energy use in the U.S. comes from buildings
unemployment in the U.S. construction industry, 4/10

Net savings possible from energy efficiency in the U.S. by the year 2020
National PACE Policy

24 States Have PACE Authority
4 States Have PACE Legislation Pending

"We are going to make it a lot easier to borrow money. We are doing this by encouraging communities to give you the option to pay the expense of retrofitting your home by paying it back on your property taxes."
The Road to the Green Revolution...

The Feds Take an Interest:

**June 2009**
- Federal Housing Finance Agency Issues Letter Raising PACE concerns

**Summer 2009**
- White House Interagency Task Force Meets to Resolve Concerns, Develop PACE Guidelines
PACE Gets Green Light:

**Sept. 2009**
- Fannie Mae issues lender guidance allowing PACE to be treated as an "assessment"

**October 2009**
- Vice President Biden Announces PACE support
- White House Framework Issued
- $150 Million in Federal Funds for PACE

The Hammer Falls...

**May 2010**: Fannie Mae lender letter
- PACE programs are "loans," not assessments

**July 2010**: FHFA guidance letter
- PACE creates "Safety and soundness concerns"
- Punish PACE properties and communities offering PACE

**July 2010**: Congressionally led PACE discussions with FHFA and other regulators
- Result: FHFA sent a letter to Members of Congress breaking off talks.

**August 2010**: Fannie Mae lender letter
- PACE "loans" prior to July 6th must be paid off at time of refinace
Path Forward

- Negotiation
- Litigation
- Legislation

Current Status of Negotiations

FHFA to Congress:
“Discussions have failed…”
**Litigation**

🌟 California Files Suit
- *People of the State of California vs. Federal Housing Finance Agency* (Filed July 14, 2010)
- “California seeks a prompt judicial declaration against Fannie Mae and Freddie Mac that, under California law:
  🌟 (a) PACE programs operate by assessments, not loans, and such assessments are valid;
  🌟 (b) liens that may result from PACE assessments, like those resulting from other types of assessments, have priority over mortgages; and
  🌟 (c) participation in PACE programs is compatible with, and not in violation of, Fannie Mae’s and Freddie Mac’s standardized mortgage documents.”

🌟 Additional lawsuits by Babylon, Sonoma County, Leon County, NRDC, Palm Desert, and Sierra Club

**Legislation**

🌟 PACE Assessment Protection Act – bipartisan support
- HOUSE: HR 5766 (Thompson); 48 co-sponsors
- SENATE: S 3642 (Boxer); 5 co-sponsors

“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.”

🌟 Legislation would require Fannie Mae and Freddie Mac to issue PACE underwriting standards that are consistent with US DOE guidelines
A Few Lessons From PACE

- PACE works: created demand and funded projects -- with zero defaults
- Regulators, finance industry can’t ‘see’ energy costs
- Lack of uniform standards was a challenge for regulators

Cisco DeVries | cisco@renewfund.com | (510) 451-7900