Congress of the United States
Washington, DC 20515

March 26, 2012

Mr. Edward DeMarco
Acting Director
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024

Dear Acting Director DeMarco:

We write in response to your Advanced Notice of Proposed Rulemaking (77 Fed. Reg. 3958-3964 (Jan. 26, 2012)) regarding mortgage assets affected by Property Assessed Clean Energy (PACE) Programs.

Unfortunately, on July 6, 2010, policy guidance issued by the Federal Housing Finance Agency (FHFA) impeded the ability of local municipalities to implement PACE programs. In justifying its policy guidance, FHFA raised numerous concerns, including the first-lien status of PACE assessments and the lack of uniform financial standards. While some of these concerns might be legitimate for some mortgages, FHFA has failed to identify any mortgages, regardless of the amount of positive equity or other terms, for which PACE assessments would be safe. The FHFA has been unwilling to act upon genuine and constructive suggestions addressing concerns about safety and soundness.

Now that the Agency is subject to a preliminary injunction ordering it to proceed with the notice and comment process on PACE assessments, we hope that it will consider the following:

1. <u>PACE assessments present minimal risks to lenders, investors, homeowners and GSEs.</u>

Energy efficiency and renewable energy improvements reduce homeowners' energy bills and can increase properties' value, increasing the safety and soundness of PACE assessments. Additionally, clear, strong national standards and consumer protections were incorporated into H.R. 2599, legislation we have introduced or cosponsored, in order to protect Fannie Mae and Freddie Mac, mortgage holders and consumers. These standards were based on the PACE guidelines recommended by the White House (October 18, 2009) and the Department of Energy (May 7, 2010). The early results of PACE programs in Boulder County, Colorado; Sonoma County, California; Babylon, New York; and Palm Desert, California are overwhelmingly positive: there are only 2 known defaults out of more than 2,500 properties. Regulations promulgated by FHFA regarding PACE assessments should reflect the protections suggested in H.R. 2599 and other proposals and the very low rates of loss experienced by existing PACE programs.

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2. **Home energy improvements financed with PACE achieve important economic and environmental benefits.**

According to a May 2011 Department of Energy study, the Boulder County, Colorado PACE program created over 120 jobs, generated more than $20 million in overall economic activity and reduced consumers' energy use by more than $125,000 in the first year alone. Another national study concluded that if $1 million were spent on PACE improvements in four geographically diverse American communities (Columbus, OH; San Antonio, TX; Santa Barbara, CA; Long Island, NY were modeled), it would generate $10 million in gross economic output. It would also generate $1 million in combined Federal, state and local tax revenue and 60 jobs per city on average. In the proposed rule, the FHFA should also analyze the benefits of PACE assessments when considering the potential costs identified in the advanced notice of proposed rulemaking.

3. **PACE assessments on homes with different amounts of positive equity.**

A PACE assessment for 10% of the value of a home will have very different risks for homes with different amounts of positive equity. FHFA's rulemaking should address the affects of PACE assessments on homes with a wide range of different amounts of positive equity.

Conclusion

We share FHFA's concern about the need to protect American taxpayers and to stabilize the government sponsored enterprises. We nonetheless strongly believe that the PACE program can be implemented in a manner that will protect the safety and soundness of the enterprises while protecting local governments' authority to fund local projects as their local constituents see best. All of us should be committed to meeting these important goals.

We strongly urge you to reconsider your blanket opposition to PACE programs and to work with us and the broader public to ensure that PACE assessments with adequate conditions to address any risk are implemented in an expeditious manner.

Sincerely,

NAN HAYWORTH
Member of Congress

MIKE THOMPSON
Member of Congress

DAN LUNGREN
Member of Congress

JOHN CAMPBELL
Member of Congress

LOIS CAPPS
Member of Congress

PETER KING
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