

# United States Senate

WASHINGTON, DC 20510

September 13, 2012

Mr. Alfred Pollard, General Counsel  
Attn: Comments/RIN 2590-AA53  
Federal Housing Finance Agency, Eighth Floor  
400 Seventh Street, SW.  
Washington, DC 20024

Dear Mr. Pollard:

We write to express our comments with regards to the FHFA's proposed rule for Property Assessed Clean Energy (PACE) programs. Specifically we have concerns with FHFA's assertions that PACE programs materially increase financial risks to Fannie Mae and Freddie Mac (the Enterprises). We also have concerns with the proposed rule overall as it appears to continue to block PACE programs from moving forward. As set out below, we propose an alternative that would improve the proposed rule and allow PACE to proceed.

More than 30,000 comment letters supporting PACE were submitted by state and local governments, federal and state elected officials, banks, real estate developers, energy companies, and organizations representing millions of Americans in response to FHFA's Advance Notice of Proposed Rulemaking (ANPR). Those comments cited numerous studies, articles and legal decisions providing evidence that PACE increases the value of homes, reduces homeowners' energy costs, grows jobs and economic activity, and helps local governments meet greenhouse gas reduction and clean energy goals. FHFA needs to consider the weight of the evidence in the record establishing that PACE does not pose material risks to the Enterprises.

In addition to prohibiting the Enterprises from buying mortgages on properties with PACE liens, the proposed rule allows the Enterprises to make mortgages on such properties immediately due, and would prohibit the Enterprises from consenting to PACE obligations under any conditions. FHFA's Proposed Rule challenges the well-established authority of local governments to finance improvements with a valid public purpose through assessments, and unfortunately imperils an effective means of creating jobs, ensuring energy security and protecting public health and the environment.

Instead of a rule obstructing PACE, FHFA should adopt a modified version of its Alternative 3 to the proposed rule. Alternative 3 provides for rigorous underwriting criteria to reduce the risk of default, thereby protecting the Enterprises. Alternative 3 should be improved to ensure that the Enterprises will indeed support PACE programs if local governments comply with these rigorous underwriting standards.

FHFA's adoption of the suggestions outlined above will allow PACE programs to move forward while enhancing the value of the Enterprises' portfolio and respecting the rights of local governments. We welcome the opportunity to work with FHFA to further refine the Proposed Rule if necessary.

Thank you for your consideration.

Sincerely,

Handwritten signature of Michael F. Bennet in blue ink.

Michael F. Bennet  
U.S. Senator

Handwritten signature of Al Franken in blue ink.

Al Franken  
U.S. Senator

Handwritten signature of Jeff Merkley in blue ink.

Jeff Merkley  
U.S. Senator

Handwritten signature of Mark Begich in blue ink.

Mark Begich  
U.S. Senator

Handwritten signature of Mark Udall in blue ink.

Mark Udall  
U.S. Senator