



FEDERAL HOUSING FINANCE AGENCY
Office of the Director

August 26, 2010

The Honorable Ed Perlmutter
U.S. House of Representatives
415 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Perlmutter:

As you know, the Federal Housing Finance Agency (FHFA) has had significant concerns with so-called Property Assessed Clean Energy (PACE) programs that provide loans as part of a local tax assessment and result in almost all cases in the creation of a lien superior to an existing mortgage. PACE programs are implemented state-by-state and locality-by-locality without uniform standards for consumer protections and appropriate underwriting. FHFA found this particular initiative threatening to the safe and sound operations of its regulated entities and directed that appropriate steps be taken to address such risks. At the same time, FHFA indicated its support for energy retrofit lending programs to assist with energy conservation that also protect consumers through full disclosure and prudent underwriting standards.

Given your strong interest in exploring whether a resolution to this issue was possible, FHFA has worked diligently with your staff and those of other members as well as state and local governments and federal regulatory authorities to determine if modifications could be made that would address deficiencies in these programs. No satisfactory conclusion has been reached to address problems associated with liens created after a mortgage is in place, thereby transferring credit risk to banks, secondary market parties and investors in mortgage-backed securities. Further, consumer protections and appropriate underwriting standards need to be uniform and mandatory to protect homeowners. Discussions have failed to produce concepts that would mitigate the threat to FHFA-regulated institutions or to broader financial markets.

FHFA, therefore, has determined that its guidance to its regulated entities must remain in place. FHFA will continue to work on alternative lending structures with our regulated entities and other regulators that do not pose the risks of the PACE programs with first liens.

I want to express my appreciation to you for bringing together members of the House, their staffs, committee staffs, administration personnel and various regulatory agencies. Your leadership produced a strong effort by all concerned to find a resolution to this difficult matter. I believe that FHFA has done its utmost to seek constructive alternatives. As noted above, FHFA is committed to continue to work with you in your efforts to support energy conservation financing.

Yours truly,

A handwritten signature in black ink that reads "Edward J. DeMarco".

Edward J. DeMarco
Acting Director

xc: The Honorable Steve Israel
The Honorable Doris Matsui
The Honorable John Sarbanes
The Honorable Mike Thompson