



# COUNTY OF SAN DIEGO

## BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

### AGENDA ITEM

**DATE:** August 3, 2010

**32**

**TO:** Board of Supervisors

**SUBJECT:** DEFENDING THE PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING MECHANISM FOR SOLAR ENERGY AND EFFICIENCY PROGRAMS

#### **SUMMARY:**

##### **Overview**

Property Assessed Clean Energy (PACE) programs allow property owners to spread the cost of rooftop solar and other energy efficiency measures over 20 years using an assessment on an owner's property tax bill. This innovative funding mechanism is among the most promising ways that San Diegans can spur the economy, create jobs, save money and lessen the nation's dependence on foreign oil. At the direction of Chairwoman Pam Slater-Price and Supervisor Dianne Jacob, San Diego County enrolled in a statewide PACE effort known as CaliforniaFIRST. Our County program was set to launch this month.

Unfortunately, the Federal Housing Finance Agency (FHFA) recently concluded that Fannie Mae and Freddie Mac, federally chartered corporations that serve as sources of funds for mortgage lenders, will not buy or sell home mortgages for properties enrolled in PACE programs. This flawed position has stalled PACE efforts across the nation, including ours, and stranded hundreds of millions of dollars in public and private investment.

Federal legislation that aims to preserve PACE financing programs has been drafted in Congress. Today's action would strengthen the County's commitment to preserve PACE financing by empowering our legislative representative to work toward an immediate remedy.

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**Recommendation(s)**

**CHAIRWOMAN SLATE-PRICE AND SUPERVISOR DIANNE JACOB**

Direct the CAO to instruct the County’s federal legislative representative to pursue an immediate legislative or administrative solution to the disagreement involving PACE financing in order to protect the County’s PACE program.

**Fiscal Impact**

There is no fiscal impact associated with this recommendation.

**Business Impact Statement**

N/A

**Advisory Board Statement**

N/A

**BACKGROUND:**

PACE programs allow property owners to spread the cost of rooftop solar and other energy efficiency measures over 20 years using an assessment on the owner’s property tax bill. This innovative funding mechanism is among the most promising ways that San Diegans can spur the economy, create jobs, save money and lessen the nation’s dependence on foreign oil. At the direction of Chairwoman Pam Slater-Price and Supervisor Dianne Jacob, San Diego enrolled in a statewide PACE effort known as CaliforniaFIRST. Our County’s PACE program was set to launch this month.

Unfortunately, the Federal Housing Finance Agency recently concluded that Fannie Mae and Freddie Mac, federally chartered corporations that serve as sources of funds for mortgage lenders, will not buy or sell home mortgages for properties enrolled in PACE programs. This flawed position has stalled PACE efforts across the nation, including ours, and stranded hundreds of millions of dollars in public and private investment.

FHFA wrongfully concluded that PACE programs created a “loan” senior to a property’s mortgage, violating terms of standard home mortgages that prohibit any liens senior to a mortgage. In fact, PACE assessments are *not* loans and should not be analyzed as such. Rather, they are property tax assessments that stay with a property in the event of a sale, just like existing assessments for fire districts, hospitals and underground utilities—assessments that have never been an issue for FHFA. If a foreclosure were to happen, only delinquent payments would be due, *not* the multi-year assessment in its entirety. This reduces the risk to lenders to close to zero.

FHFA’s position directly contradicts San Diego County’s authority to serve public needs through the California tax code.

California’s Attorney General has taken legal action to remedy the situation. Federal legislation that aims to preserve PACE financing programs has been drafted in Congress. California

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Senators Dianne Feinstein and Barbara Boxer have formalized their concerns with FHFA's position as have Congressmen Bob Filner and Duncan D. Hunter.

It is our very strong belief that the rationale behind FHFA's position on PACE financing is erroneous and mired in bureaucratic inertia. FHFA's position must be reversed so that years of hard work and hundreds of millions of dollars in investment by cities, counties and private entities can be realized.

Public interest in PACE financing has been extraordinary. In San Diego County alone, homeowners in 13 cities and unincorporated communities will see PACE assessments shelved by FHFA's ill-conceived position. Challenging economic times like ours call for decisiveness and action, not the fear and disinterest exhibited by FHFA. We believe rooftop solar and other energy efficiency measures have the very real potential to make San Diego's economy robust again. We thank you for your support.

**Linkage to the County of San Diego Strategic Plan**

N/A

Respectfully submitted,

PAM SLATER-PRICE  
CHAIRWOMAN

DIANNE JACOB  
SUPERVISOR XX

**ATTACHMENT(S)**

N/A

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**AGENDA ITEM INFORMATION SHEET**

**REQUIRES FOUR VOTES:**          Yes          No

**WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED**  
     Yes          No

**PREVIOUS RELEVANT BOARD ACTIONS:**  
N/A

**BOARD POLICIES APPLICABLE:**  
N/A

**BOARD POLICY STATEMENTS:**  
N/A

**MANDATORY COMPLIANCE:**  
N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION  
NUMBER(S):**  
N/A

**ORIGINATING DEPARTMENT:** District 3 and District 2, Board of Supervisors

**OTHER CONCURRENCE(S):**     N/A

**CONTACT PERSON(S):**

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