



Federal Housing Finance Agency

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November 12, 2010

Mr. Dana Fischer
Efficiency Maine Trust
19 State House Station
Augusta, ME 04333-0019

Re: Notice of Agency Rulemaking Proposal
Chapter 110, Property Assessed Clean Energy Program

Dear Mr. Fischer:

On behalf of the Federal Housing Finance Agency (FHFA) and Fannie Mae and Freddie Mac (the GSEs), I am pleased to comment on the Efficiency Maine Trust's Notice of Agency Rulemaking (the "Notice") to implement Maine's Property Assessed Clean Energy (PACE) Program.

FHFA and the GSEs support efforts for improved residential energy efficiency. The development and adoption of responsible lending practices that permit energy efficient and renewable energy home improvements should benefit all stakeholders. I would note that the GSEs themselves have incorporated energy efficient and green practices into their day-to-day business operations.

The Maine approach to address the energy conservation needs of your residents incorporates responsible lending practices with a subordinate lien status for the energy improvement loans. This program promotes sustainable homeownership and will aid in the success of the Maine PACE program. The GSEs continue to operate to support housing in the state and this effort will compliment the GSEs' efforts at keeping homeowners in their homes and providing liquidity to mortgage markets including for those homes requiring retrofits.

FHFA has concerns with PACE programs that alter traditional lending priorities, that result in collateral-based lending rather than lending based upon ability-to-pay or that are not subject to the Truth-in-Lending Act and other consumer protections. Maine's PACE Program provides that PACE mortgages are not entitled to any special or senior priority. The proposed underwriting criteria in the Notice incorporates a potential borrower's income and expenses in determining program eligibility and requires consumer disclosures, among other protections. The proposed quality assurance program would be beneficial and should prove useful in ensuring that improvements achieve the intended energy savings. Accordingly, FHFA and the GSEs support the overall approach of Maine's PACE Program.

Two specific comments concerning the Notice that I would hope would be of benefit are provided here. First, the Notice is unclear regarding whether PACE loans would be fully amortizing. Although the Notice specifies that the terms of the PACE loans would be five, ten or fifteen years (Section II.1.P) and capped by the estimated useful lives of the improvements (Section II.2.A.5), it is merely implicit that loans would be fully and evenly repaid within those timeframes. The Notice leaves open the possibility of negative amortization schedules, adjustable interest rates, and balloon payments which I would assume is not the state's intent. This could be addressed with minor clarification.

Second, with respect to the required borrower certification that there are no overdue payments on mortgages or other liens secured by the property (Section II.2.A.9), it would be desirable to obtain a certification from the first mortgage lender, in addition to the borrower, that the first mortgage is current. Alternatively, a potential borrower may also submit a recent account statement from the lender or servicer indicating that the borrower is current on the first mortgage. Such a certification from the lender would bolster the overall reliability of the Maine PACE Program's proposed underwriting process.

I hope that these comments are useful as the Efficiency Maine Trust finalizes rules implementing Maine's PACE Program. Please do not hesitate to contact me if you have any questions regarding our comments.

With all best wishes, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Alfred M. Pollard", written in a cursive style.

Alfred M. Pollard
General Counsel