



HOUSE OF REPRESENTATIVES

Testimony before House Rules Committee

Tuesday, May 9, 2017

Chair Williamson, members of the committee. For the record, my name is Pam Marsh, Representative from HD 5 which includes Ashland, Talent, Phoenix & Jacksonville.

I'm here today to urge your support for HB 3241 with the -3 amendments. This bill will expand Oregon's current PACE program to include single-family residential dwellings.

PACE, which stands for Property Assessed Clean Energy, is a model financing mechanism that provides low-cost, long-term funding for energy and water efficiency projects. PACE financing can be repaid directly to the lender or as an assessment on the qualifying real property's regular tax bill and processed the same way as other local public benefit assessments like sidewalks and sewers.

In 2009 and 2014, the Oregon Legislature approved legislation to authorize local governments to establish commercial PACE programs. Multnomah County pioneered the first commercial PACE program in the state in September of 2015 by creating PropertyFit, a collaboration between the County, the Portland Development Commission, and the Energy Trust of Oregon.

Currently, PACE programs in Oregon are limited to commercial, industrial, and multifamily residential properties. HB 3241 will expand PACE authorization to include residential, single-family dwellings of up to four units.

Here's how the program will work:

Participating local governments will secure funding via revenue bonds or private sources. Loans will be issued to qualifying homeowners for residential utility improvements, including energy or water efficiencies, renewable energy, energy storage, and smart electric vehicle charging stations. Funding may also be used for seismic rehabilitation projects – an added program element that we think could be of great benefit, especially in our coastal communities.

Eligible homeowners will undergo an energy or water audit to ensure that the costs of improvements do not exceed the cumulative cost savings over the life of the investment. Projects may be funded at up to 100% of costs, but may not exceed 20% of the real market value of the property. The total of the improvement and any existing mortgage cannot exceed 97% of real market value. Local governments can choose to secure the loan with a lien, in the same manner as used with other local improvements. They will also be free to impose other requirements, as appropriate.



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I want to call out the strong consumer protection language that requires adherence to the Best Practices Guidelines for Residential PACE Financing Programs published by the US Department of Energy November 2016. We also detailed requirements that mirror disclosure and consumer protection standards passed in California last year and supported by the local real estate, banking, and credit union industry. These standards address property disclosures, contractor conduct, acceptable products and projects with pricing guidelines, marketing practices, pre and post funding support, treatment of protected classes, grievance procedures, data security and privacy matters. We have also mandated financial disclosures, including fees, payments, fixed interest rate, annual tax obligation, repayment process and schedule. These protections will shield both homeowners and lenders from possible abuses of the program.

Finally, I would like to address specific concerns that you will hear in a few minutes from the Banking industry.

C: The loan will be secured by a lien that is primary to the existing mortgage and may pose a risk to the mortgage holder and/or place the homeowner in default.

A: HB 3241A creates a program of government tax-based financing, similar to land-secured districts like water or sewer districts, where the assessment to finance the property improvements run with the property, not the individual. As a government tax-based financing program, repayment is through a government assessment, and secured by a government lien on the property.

The risk posed by PACE assessments to mortgage lenders and holders is immaterial for several reasons. PACE liens would not accelerate at delinquency or default, which means the only exposure to mortgages is the arrearage of the yearly benefit assessment amount. In February 2017, the asset rating firm Morningstar published an analysis this February that concluded: "we believe that a PACE assessment does not materially increase the risk to the underlying mortgage." Renovate America, the nation's largest PACE provider, has never had a property tax foreclosure or a loss to a mortgage lender across its 93,000+ homeowner pool.

Finally, significant evidence demonstrates that PACE projects increase the value of homes – a benefit to both homeowner and mortgage issuer.

A 2016 peer-reviewed study by the Urban Institute, published in the Journal of Structured Finance, found that PACE increased resale values, typically by 100% of the PACE investment (compared to 60% for most other home improvements).

C: These "priming liens" are not permitted for properties financed by Fannie Mae and Freddie Mac, who together own more than 45% of all home loans. Federal Housing Administration insured mortgages (over 40% of all home loans) prohibit these liens if the full amount of the lien can come ahead of an FHA mortgage.



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A: The FHA (40% of all home loans) allows PACE assessments so long as the balance does not accelerate (come ahead) of the 1st mortgage in cases of default. HB 3241 contains such provisions. Fannie and Freddie prohibit a new mortgage from being originated with a PACE lien in first position, which means that any PACE assessment will be required to disclose to property owners that in a refi or sale the balance of the assessment may be required to be paid off. HB 3241 requires this disclosure.

C: These loans do not have the consumer protections applicable to regular mortgage loan and are not required to disclose fees and costs as required by the Truth in Lending Act.

A: As noted earlier, HB 3241A contains strong disclosures. Consumers will be told that a lien is on the home and that failure to pay can result in foreclosure. However, the Truth in Lending Act that has been cited by our banking friends is specific to mortgage companies; strict application to PACE would require local governments to act like mortgage originators -- an impossible standard.

PACE is just another competitive form of financing, and a homeowner could certainly choose another mechanism. PACE has the advantage of being transferable, and as a government assessment funded by bonds may offer certain advantages. Nationwide, more than 100,000 homes have PACE-funded energy improvements.

With the right tools, our local governments can be extraordinarily effective in furthering critical energy, water, and seismic improvements in our residential neighborhoods. I urge you to support HB 3241A.