Vermont Department of Banking, Insurance, Securities and Health Care Administration

BANKING DIVISION

BANKING BULLETIN #34 **January 6, 2012**

PACE Assessment Underwriting Criteria and Standards

For the purpose of this document, a property owner of a PACE qualified property receiving funding to finance an energy saving improvement will be referred to as a "Participant." These underwriting criteria are meant to determine the Participant's credit worthiness and ability to repay the assessment, that the underlying assets have and will retain value and that there will be savings or some other benefit from the assessment. Under 24 V.S.A. § 3262(a) a participating municipality shall follow underwriting criteria established by the Department of Banking, Insurance, Securities, and Health Care Administration, and shall establish other qualifying criteria to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality shall refuse to enter into a written agreement with a property owner who fails to meet the underwriting or other qualifying criteria.

1. **Definitions:**

   A. **Debt to Income Ratio.** "Debt to Income Ratio" means the ratio of the Participant's Monthly Gross Expenses to the Participant's Monthly Gross Income, expressed as a percentage.

   B. **Energy Audit.** "Energy Audit" means an analysis conducted by a Participating Energy Advisor, using such procedures and standards, including any software program for this purpose, approved by the PACE Program Administrator, of energy loss in a Qualifying Property to quantify the project costs and energy savings and estimated carbon impacts of the proposed energy improvements, including an annual cash-flow analysis.

   C. **Estimated Useful Life.** "Estimated Useful Life" means longest useful life (not to exceed 20 years) of any PACE Improvement as determined by a Participating Energy Advisor.

D. **Master Provider.** "Master Provider" means anyone who originates PACE Assessments under a PACE Program or a Municipality or its agent that administers its PACE Program.

E. **Monthly Gross Expenses.** "Monthly Gross Expenses" means the sum of the following monthly charges owed by the Participant:

1. The monthly mortgage principal and interest payment for any property owned by the Participant. With respect to adjustable rate mortgages where there is a rate reset scheduled within 120 days after the date of application, the monthly lien payment used to determine eligibility will be the greater of:

   (a) the Participant's current scheduled monthly mortgage payment or

   (b) a fully amortizing monthly principal and interest payment based on the note reset rate using the index value as of the date of the application. (In the event that adjustable rate borrowings reset more than 120 days after the date of application, the Participant's current scheduled monthly loan payment will be used).

2. One twelfth (1/12) of the annual property taxes, property and flood insurance premiums, homeowners' association or condominium fee payments and assessments on any property owned by the Participant.

3. Any mortgage insurance premiums expressed as a monthly payment.

4. Monthly payments on all closed-end subordinate mortgages.

5. Payments on all installment debts with more than 6 months of payments remaining, including debts that are in a period of deferment or forbearance.

6. Monthly payments on revolving or open-end accounts, regardless of the balance. In the absence of a stated payment, the payment will be calculated by multiplying the outstanding balance by 3 percent.

7. Monthly payments on a Home Equity Line of Credit (HELOC) using the minimum monthly payment reported on the Credit Report (as defined below). If the HELOC has a balance but no monthly payment is reported, then documentation shall be obtained verifying the payment amount, or the payment will be calculated by multiplying the outstanding balance by 1 percent.

8. Alimony, child support and separation maintenance payments with more than 9 months remaining.

9. Car lease payments, regardless of number remaining.

10. Negative net rental income from all investment properties owned.

11. Payments under the proposed PACE Assessment and any other special assessments.

F. **Monthly Gross Income.** "Monthly Gross Income" means the Participant's income amount before any payroll deductions. It includes:

   1. Wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances and other compensation for personal services;

   2. Social Security payments, including Social Security and adoption subsidies received by adults on behalf of minors or by minors intended for their own support;

   3. Monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment benefits, rental income and other continuing income; and

   4. Also includable is 1/12 of the estimated annual energy savings as determined in the Energy Audit by the Participating Energy Advisor.

G. **Municipality.** "Municipality" shall mean a city, town or incorporated village that is participating in the PACE Program.

H. **PACE Agreement.** "PACE Agreement" means an agreement between the Participant and the PACE Program Administrator for the Municipality in which the applicable Qualifying Property is located that evidences a PACE Assessment on the Qualifying Property.

I. **PACE Assessment.** "PACE Assessment" means a special assessment as determined by 24 V.S.A 3261 et seq. Repayment of the PACE Assessment will be in periodic installments (the frequency of which shall be the same as the municipal property taxes on the Qualifying Property) of principal and accrued interest reflecting amortization of the principal amount of the assessment over the assessment's term at the assessment's interest rate.

   1. Included in the PACE Assessment will be a payment to a reserve fund which will be a percentage of the PACE Assessment determined periodically by the Commissioner of Banking, Insurance, Securities and Health Care Administration.

   2. Terms shall be no longer than twenty years determined by the Master Provider, but in no case longer than the Estimated Useful Life of the PACE Improvement.

3. Interest rates are determined by the Master Provider from time to time based on factors including the availability and the cost of funding PACE Assessments and the historical performance of PACE Assessments.

4. All terms of the repayment will be included in the PACE Agreement.

5. PACE Assessment terms and interest rates are not to be structured to include negative amortization schedules, adjustable rates or balloon payments.

J. **PACE Improvement.** "PACE Improvement" means an improvement or improvements to Qualifying Property that is new and permanently affixed to Qualifying Property and that:

   1. Is a renewable energy project as defined in 30 V.S.A. §8002(2), or

   2. Is an eligible project relating to energy efficiency as defined by 24 V.S.A. §3267.

K. **PACE Lien.** "PACE Lien" means a lien on Qualifying Property securing a PACE Assessment.

L. **PACE Program.** "PACE Program" means a program established under 24 V.S.A. § 3262 by a PACE Program Administrator under which property owners can finance Energy Savings Improvements on Qualifying Property.

M. **PACE Program Administrator.** "PACE Program Administrator" means a Municipality or its agent that has elected to administer one or more of the functions of the PACE Program.

N. **Participant.** "Participant" means an owner of any Qualifying Property who has applied and been approved for a PACE Assessment.

O. **Participating Energy Advisor.** "Participating Energy Advisor" means a person or entity appointed as an energy efficiency utility under 30 V.S.A § 209(d)(2) or deemed qualified by a Municipality who provides Energy Audits and is qualified to do so as evidenced by having a current certification recognized by the State of Vermont.

P. **Qualifying Property.** "Qualifying Property" means a residential dwelling as defined in Section 103(v) of the Federal Truth in Lending Act (24 V.S.A § 3262(a)) located in a Municipality's PACE special assessment district. Dwelling includes a primary residence, vacation home, 1 – 4 owner occupied structures, manufactured homes and condominiums.

2. **Underwriting Requirements:** The following are underwriting requirements for any PACE Assessment:

   A. A PACE Assessment must be secured by a PACE Lien on Qualifying Property;

   B. The Participant must own the Qualifying Property. Proof of ownership may be obtained from the municipal tax records or land records;

   C. The maximum amount of any assessment shall be the lesser of:

      1. Thirty thousand dollars ($30,000);

      2. 15% of the assessed value of the property or 15% of an updated USPAP conforming market appraisal not more than 6 months old, whichever is greater, or

      3. The amount of the PACE Assessment, including the reserve percentage.

   D. The Participant's Debt to Income Ratio shall not exceed 41%.

      1. All Monthly Gross Expenses and related debt shall be verified using a credit report (including a joint report in the case of joint applicants as the Participant) from a nationally recognized credit reporting agency (the "Credit Report"). In addition, information concerning Monthly Gross Expenses obtained in writing from the Participant must be considered.

      2. Based on the type and source of the Participant's income, the following documents, none of which may be more than sixty (60) days old as of the date received (except for tax returns), shall be provided to verify Monthly Gross Income:

         (a) Tax Return**:** A copy of the first two pages of the most recent federal income tax return.

         (b) Employment Income: Copies of the two most recent pay stubs indicating year-to-date earnings.

         (c) Self-Employment Income: The most recent quarterly or year-to-date profit and loss statement or a recent series of bank statements to demonstrate income for each self-employed Participant, where such a profit and loss statement is not available.

         (d) Other Income: Bonus, commission, fee, housing allowance, tips, overtime, benefit income (e.g., Social Security, disability, death benefits, pension, public assistance, unemployment, adoption assistance), rental income, alimony, separation maintenance and child support are all includable in the Monthly Gross Income, if properly documented and should be verified if it makes up a significant percentage of the Monthly Gross Income.

E. The term of the PACE Assessment shall not exceed the Estimated Useful Life of the financed PACE Improvements;

F. All Qualifying Property securing a PACE Assessment must be:

1. Current with respect to property taxes and sewer charges;

2. Free of property tax and federal, state or municipal liens;

3. Not be subject to a Reverse Mortgage Transaction (as defined in 8 V.S.A. § 10701(2)); and

4. Not be subject to a mortgage or other lien for which there is a default, foreclosure or delinquency that has not been cured, nor any unsatisfied judgment, mechanics, material men or architect lien;

G. The total of the proposed PACE Assessment and all mortgages and liens on the property shall not exceed 90 percent of the higher of the assessed value of that property or an independent appraisal (less than 6 months old).

H. The Participant must certify that there are no overdue payments on mortgages or other liens secured by such property and provide either a certificate from each existing lien holder or a recent account statement to demonstrate current balances;

I. The holder of the first mortgage lien that requires a home loan escrow account may require the escrow account to include the PACE Assessment payment.

J. Such additional requirements as set forth by the lender, investor or grantor funding the PACE Program.

K. Such additional requirements as may be determined by the Commissioner of Banking, Insurance, Securities and Health Care Administration from time to time in accordance with prudent underwriting standards.

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Stephen W. Kimbell, Commissioner