C-PACE and the "PACE Act of 2017" (SB 838, HR 1958)

PACENation Guidance

Commercial PACE programs and other C-PACE market participants are understandably concerned about how bills introduced in Congress earlier this month might affect them. In our view:

- These bills do not directly impact C-PACE.
- C-PACE market participants, including local governments, energy contractors, and building owners should move forward with confidence.
- C-PACE market participants should be concerned that passage of the bills, in their current form, would define and regulate residential PACE as a mortgage.

Strong features of C-PACE that should give market stakeholders confidence include:

- Established underwriting standards that work.
- A clear understanding of specific project goals and expected outcomes.
- Comprehensive disclosures of financial terms and the consequences of non-payment.

For these reasons, it is important that we communicate key truths about C-PACE - that it provides benefits for everyone:

- State and local officials - C-PACE is a local economic development engine that creates jobs and protects the environment at no cost to local government.
- Building owners - PACE is a valuable tool to finance projects that increase the value of their properties and allow them to operate them more efficiently.
- Energy service companies - PACE allows building owns to consider projects that make sense with PACE financing but might not otherwise.
- Mortgage lenders – they approve PACE projects and continue to play an important role in evaluating projects that strengthen their collateral and client relationships.

Understanding the Impact of the Pending Senate and House Bills

Senate Bill 838 sponsored by Senators Cotton (AR), Rubio (FL), and Boozman (AR) and House Bill 1958 sponsored by Congressman Sherman (CA) would place R-PACE under provisions of the Truth in Lending Act (TILA) that apply to mortgage lenders. These bills would define R-PACE as a mortgage: a consumer loan secured by real property. As a consequence, local governments, contractors, and other R-PACE market participants could be required to conform to regulations and procedures that apply to residential mortgage lenders, such as qualifying and being licensed as mortgage brokers. This ignores the foundational structure of PACE: financing secured by a local government assessment because it funds projects that meet clearly defined public policy objectives.

PACENation and its members fully support the strongest possible consumer protections and disclosures. To that end, PACENation issued our industry's first consumer protection policies in 2016. Version 2, which aligned our policies with guidelines for R-PACE issued by the U.S. Department of Energy, were released at our 2017 PACENation Summit in February. PACENation and our members welcome the opportunity to work with Congress, consumer groups, and others, to strengthen protections for consumers. Regulation under TILA could strengthen R-PACE if it recognizes the unique foundation on which PACE stands and does not treat it like a mortgage. In our view, the long term standing of C-PACE is threatened when the same structure used for R-PACE is deemed to be a mortgage.

We will keep you informed of the latest developments with federal legislation. In the meantime, don't hesitate to reach out to us with questions or requests for assistance. We also encourage you to reach out to your elected officials to voice your concerns.