

### **Property Assessed Clean Energy (PACE) Loan Processing**

1. Purpose. The purpose of this Circular is to address origination and loan processing requirements for Department of Veterans Affairs (VA) guaranteed loans when a property is subject to PACE obligations.

2. Background. VA supports the overall goal of clean energy, energy efficiency, and resilience. PACE programs may provide an alternative means of financing clean energy, energy efficiency, and resilience improvements to residential properties using financing provided by private enterprises in conjunction with state and local governments.

a. Generally, the repayment of the PACE obligation is collected and secured in the same manner as a special assessment is collected by the local government, rather than paid directly by the borrower to the party providing the PACE financing. In the event of the sale of the property with outstanding PACE financing, the obligation may continue with the property, and the new homeowner will be responsible for the payments on the outstanding PACE amount. The terms and conditions of the PACE obligation may vary by state, local government, and PACE program.

b. Pursuant to 38 U.S.C. § 3703(d)(3)(A), a VA-guaranteed loan must be secured by a first lien on the realty. Lenders are responsible for properly securing the first-lien position of a VA-guaranteed loan.

3. Policy. Properties that are or will remain encumbered with a PACE obligation may be eligible for VA-guaranteed financing provided that the lender satisfies the requirements in Section 4 of this Circular.

4. Action. Properties that are or will remain encumbered with a PACE obligation may be eligible for VA-guaranteed financing provided that the lender determines that the following requirements are met:

a. Under the laws of the state where the property is located, the PACE obligation must be collected and secured by the creditor in the same manner as a special assessment against the property.

b. The property may be subject to the full PACE obligation; however, the property shall not be subject to an enforceable claim (i.e., a lien) superior to the VA-guaranteed loan for the full outstanding PACE obligation at any time.

c. The property may, however, be subject to an enforceable claim (i.e., a lien) that is superior to the VA-guaranteed loan for delinquent regularly scheduled PACE special assessments. (Note: If VA acquires ownership of a property that is subject to a PACE obligation, or if VA is assigned a VA-guaranteed loan that is secured by such a property, nothing in this policy should be construed as a waiver or release of VA's federal property rights or legal claims related to such property rights.)

d. There are no terms or conditions that limit the transfer of the property to a new homeowner. Legal restrictions on conveyance arising from a PACE obligation that could require the consent of a third party before the owner can convey the real property are prohibited, unless such provisions may be terminated at the option of, and with no cost to, the owner.

e. The existence of a PACE obligation on a property is readily apparent to mortgagees, appraisers, borrowers, and other parties to a VA-guaranteed loan transaction; information on PACE obligations must be readily available for review in the public records where the property is located.

f. At the time of purchase, the sales contract must indicate whether the PACE obligation will remain with the property or be satisfied by the seller at, or prior to closing. Where the PACE obligation will remain, all terms and conditions of the PACE obligation must be fully disclosed to the borrower and made part of the sales contract between the seller and the borrower.

g. Where improvements have been made to the property through a PACE program, and the PACE obligation will remain outstanding, the appraiser must analyze and report the impact on the value of the property, whether positive or negative, of the improvements and any additional obligation (i.e., increased tax payments).

h. If the lender requires a borrower to escrow funds to ensure the PACE obligation is paid timely, the lender must open and manage the escrow accounts in a manner consistent with federal, state, and local law.

5. Questions. Inquiries in this regard may be directed to Gerald Kifer via e-mail at: [colenders@vba.va.gov](mailto:colenders@vba.va.gov).

6. Rescission: This Circular is rescinded July 1, 2018.

By Direction of the Under Secretary for Benefits

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