

**Strong Consumer Guards are Needed to Protect Ohioans Who Borrow
Home Improvement Loans Through the Residential PACE Program**

Testimony In Support of House Bill 646

Civil Justice Committee

Ohio House of Representatives

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Thank you for the opportunity to submit written testimony in support of House Bill 646, which will provide important protections for Ohio homeowners and consumers who borrow money to make home improvements through the Residential PACE (Property Assessed Clean Energy) financing program.

The Cuyahoga County Vacant and Abandoned Property Action Council (VAPAC) is pleased to join with representatives from the real estate and lending industries, as well as fair housing, consumer and community development advocates to enthusiastically express our support for HB646.

We wish to emphasize that our testimony is directed to the **Residential** PACE financing program, where the borrower is a home owner, and not to the **Commercial** PACE financing program, where the borrower is a commercial real estate developer. The Commercial PACE program is widely regarded as highly successful, involves borrowers who are savvy real estate professionals, and has not generated any of the concerns raised by the Residential PACE program.

Studies published by the Western Reserve Land Conservancy (WRLC) demonstrate that 1) there is a significant need for home repair and home improvement resources in underserved communities, and 2) those same communities have difficulty accessing home repair mortgage financing.¹

¹ "Housing Market Recovery in Cuyahoga County". Pages 67-68. July 2019.

https://www.wrlandconservancy.org/wp-content/uploads/2019/07/Cuyahoga-Housing-Trends-2019_7-30-19.pdf

At first impression it would appear that Residential PACE financing would be a means to address both of these concerns, while having the added benefit of promoting energy saving and “green” home improvements.

But there is substantial evidence to the contrary. Ohio is in a unique position to learn from three other states where Residential PACE has been implemented and found to have caused severe economic and emotional damage to senior citizens and other homeowners. In California, Florida and Missouri there have been well-documented complaints of homeowners being taking advantage of: up-selling of products the homeowner doesn’t need, fraudulent misrepresentation and failure to disclose important contract terms. Here are just a few links which document these issues:

California

<https://www.dropbox.com/s/hjbv2gky1dnrm11/LA%20Terminates%20Pace%20Program.pdf?dl=0>

Florida

<https://www.naplesnews.com/story/money/business/local/2019/06/25/pace-financing-ban-continues-collier-county-homes/1528847001/>

Missouri

<https://www.propublica.org/article/missouri-pace-loans>

<https://www.propublica.org/article/clean-energy-loans-trapped-black-homeowners-in-debt-the-legislature-just-started-trying-to-fix-the-problem>

What caused these problems, and what can Ohio do to protect its citizens?

In spite of the perceived benefits on the surface, there are several key weaknesses to the Residential PACE program.

- First, there is the fundamental difference between Residential PACE and its companion program, Commercial PACE. With Residential PACE the borrower is an individual homeowner, many of whom are senior citizens or residents of low-and-moderate income communities. With Commercial PACE the borrower is a commercial real estate developer who typically possesses knowledge and expertise with respect to real estate, law and financing.
- The program is contractor-driven. Residential PACE contractors typically go door-to-door selling their various energy-related products: windows and doors, insulation, new roof, solar. The transactions usually take place in someone’s home, in their living room. Contractors present the legal documents to the home owner on a laptop or tablet computer, and the homeowner signs electronically. The home owner is usually NOT left with a hard copy of the contract – it is typically mailed at a later date. This situation lends itself to high pressure sales tactics where the home owner can be sold something they don’t need, or much more than they need.

- Although a core theme of Residential PACE is “green” energy savings for the home owner, the actual energy savings may depend entirely on which contractor shows up first at someone’s home. Since there is no energy audit done for the home owner, the home owner does not know what their home needs. Will insulation save the most money, or will solar, or windows and doors, or perhaps a new furnace, or a new hot water heater?
- And consider this – the contractor isn’t just selling their home improvement product, they’re also selling the financing and in effect **acting as both a contractor and a mortgage broker**. State mortgage broker licensing laws are skirted by having a licensed mortgage broker get on the phone with the contractor and home owner to finalize that portion of the deal.
- The proposed Ohio Residential PACE program originally made verification of the borrower’s ability to repay the loan **optional**. Subsequently a half-hearted attempt to correct this required third party verification of income only. But not expenses. The only way to verify ability to repay is to verify both income and expenses. We are only a decade past the worst financial disaster in the past 100 years – caused chiefly by the predatory selling of loans without verification that borrowers could repay the loans.
- The Residential PACE loan is not like a typical home improvement loan, and not like a credit card loan. It becomes a super priority tax lien on the home owner’s property, and thus is higher in priority than virtually any other lien on the property.

These are some, but not all, of the weaknesses of the Residential PACE program. They demonstrate why House Bill 646 is needed to strengthen the program to protect Ohio senior citizens and other vulnerable home owners.

Conclusion

Ohio communities need more home repair and home improvement resources. Residential PACE can, with proper protections built in, be another tool in the tool box for Ohio homeowners. Ohio is presented now with a unique opportunity: to learn from the lessons of the foreclosure crisis that resulted in massive loss of home owner equity and property tax value, and to learn from the recent, and well documented, experiences of California, Missouri and Florida.

Respectfully submitted,

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