THE BOND BUYER
THE DAILY NEWSPAPER OF PUBLIC FINANCE

PACE Program Sees Hope For a New Lease on Life

Friday, February 3, 2012

By Keeley Webster

Recent events have breathed new life into the Property Assessed Clean Energy program, which allows municipalities to float bonds to finance the installation of energy-efficiency projects.

Originally conceived in Berkeley, Calif., in October 2008 as a way to help homeowners pay the up-front costs of installing energy efficient technologies, the PACE program stalled in July 2010 when the Federal Housing Finance Agency, which regulates Fannie Mae and Freddie Mac, ordered the government-sponsored enterprises not to underwrite mortgages for homes with PACE loans.

Even though 28 states and the District of Columbia have adopted PACE legislation, only three bond issues have gone to market – one within the past few weeks – and only one was large enough to be rated.

Through the program, homeowners pay the money back through an annual surcharge on their property tax bill, typically spanning 20 years. When an owner sells the home, the outstanding surcharge stays with the home.

FHFA was concerned because the PACE liens are senior to the mortgage, so the PACE lender would be paid ahead of the bank, or Fannie or Freddie, in the case of foreclosure. Though Maine has recently introduced legislation that would make the PACE lien subordinate, advocates think that will result in interest rates being too high to entice homeowners, said Tom Simchak, a senior research associate with the Washington-based Alliance to Save Energy.

In what was considered a victory by PACE advocates, the FHFA announced last week it would hold public hearings and review its position after it lost a California court case that cited its failure to seek public comment before making policy changes, Simchak said.

Rep. Nan Hayworth, R-N.Y., introduced HR 2599 last summer, instructing Fannie and Freddie to purchase mortgages with PACE assessments. The legislation now isn't expected to move forward until after the FHFA completes its public hearings and reviews its policy, he said.

The hope is if the FHFA changes its mind, the program will take off. Many states have moved to using the program for commercial real estate.

Few bonds have actually gone to market, according to Cliff Staton, vice president of marketing at Oakland-based Renewable Funding.

Sonoma County, Calif., and Boulder County, Colo., were the only localities that made use of the legislation for residential projects before the FHFA made its ruling.

Boulder County received a AA-minus from Fitch Ratings in October 2011 for $3.4 million of special assessment district bonds issued to fund improvements on 623 homes through its PACE program, Staton said.

Sonoma County financed a program involving 1,400 homes through its treasury, but is in the process of trying to sell bonds to fund a solar array project at Sonoma Mountain Village, a commercial real estate project, Staton said.

The county approved $1.6 million of funding in September for the project in a public-private partnership with Clean Fund LLC to help pay for the installation. The county set up its program in 2009 to provide PACE financing for homeowners using its treasury. But in March 2011, the Board of Supervisors voted to allow private financial institutions to fund projects through the program.

Clean Fund and other private firms are positioning themselves as third-party funders of PACE programs like SCEIP, enabling local governments to tap private money. One such firm is San Diego's Figtree Energy Resource Co., which issued a $725,000 PACE bond last month to fund renewable-energy projects on two residential and five commercial real estate projects in four Southern California cities.

"The taxable municipal bond was sold to the capital markets without any state or federal funding assistance — a 100% private program," said Mahesh Shah, chief executive of Figtree.

The Pacific Housing and Finance Agency, a joint-powers authority, has authorized $95 million of bonds. The underwriter is O'Connor & Company Securities Inc. of Newport Beach, Calif. Bond counsel is Lewis Brisbois Bisgaard & Smith LLP of Los Angeles.

"We think there is demand," Shah said. "We think the Fannie and Freddie issue will be resolved in residential and it will pick up."