



NATIONAL ASSOCIATION OF REALTORS® ISSUES MOBILIZATION GRANT APPLICATION

Campaign Name: Remove PACE

Amount Requested: 25000

**Date by When Decision
is Needed on Request:** 2016-12-31

Category: Matter before policymakers – e.g., legislation, regulation)

Association: BAKERSFIELD ASSOCIATION OF REALTORS® INC

Association Contact Information

First Name: Kim

Last Name: Schaefer

Title: GAD

Contact Phone: 6616352300

Contact Email: kim@bakersfieldrealtor.org

Address: 2300 Bahamas Drive

City: Bakersfield

State: CA

Zip Code: 93309

Explanation of Issue and Association's Position

1. What is the issue and how is it being decided (by legislative body, ballot initiative, etc.)?

The acronym PACE stands for Property Assessed Clean Energy. PACE programs are offered by various governmental entities to provide property owners with a means to finance conservation improvements and pay for them through an assessment on the owner's property. PACE programs are available in most areas for both residential one to four unit properties and commercial properties. While the name references clean energy, PACE programs also finance water conservation improvements. PACE programs will generally have different names throughout the state. For example PACE programs in many areas such as Western Riverside County are operated through Home Energy Renovation Opportunity known by the acronym HERO, even though HERO is a PACE program.

Generally, PACE programs begin with a local public agency (such as a city, county or municipal utility district) adopting a resolution to create a Joint Power Authority (JPA) to authorize the creation of a PACE loan program. The JPA administers the program directly or may contract with a private entity to administer it. The JPA may authorize either local governments or third parties to make loans to homeowners for the conservation improvements.

There are a wide range of conservation improvements allowed by the various PACE programs. While approved conservation improvements vary by program, most PACE programs include improvements such as solar panels, energy star rated core plumbing systems, duct replacement, electric vehicle plug-in stations, pool circulating pumps, water heaters, furnaces, etc.

PACE programs are funded by either private or public sources, or a combination of both. For example, Sonoma County has generally used public funds for their residential PACE program. The residential PACE program in Sonoma County, Sonoma County Energy Independence Program or SCEIP, borrows money from the County, which is then paid back with interest as the lien is paid off by the homeowner. In other areas, it is primarily private funding. In HERO PACE programs, typically bonds are issued to private investors to pay the cost of the of the conservation improvements.

Although particulars vary between the programs, generally a homeowner who is interested in adding a conservation

improvement to his or her home is first advised and sometimes required to have an energy audit conducted on the property to identify areas of potential conservation improvements. After that, a homeowner contacts a contractor, who typically has to be approved or certified by the PACE program to be eligible to work on the project. The contractor provides an estimate of the costs of the conservation improvement(s) the homeowner wishes to add. The homeowner then applies to the program for approval. Typically there are costs associated with the application. Only once the improvement application is approved, will the work begin.

If the project is approved, the entity administering the program will enter into an agreement with the property owner where the entity agrees to pay the cost of the improvement. An assessment lien is placed on the property for the amount owed plus interest. After the work is performed, the PACE program entity pays the contractor. The property owner repays the entity for the improvements as special tax assessment on

The PACE lien is similar to a property tax lien in that it has "super priority." An assessment lien is senior to all private liens including any deeds of trusts for existing mortgages. Payments on the lien are also billed in a similar manner to property taxes.

The amount that can be financed by a PACE lien varies depending on the entity administering the program. State law for PACE programs allows PACE assessments of less than 15% of the market value of the property for the first \$700,000 of the value of the property and less than 10% for any amount above that (Cal. Pub. Res. Code section 26063).

PACE programs also are not concerned about the borrower's credit scores or employment history, making financing easier to obtain and less time consuming, but PACE loans are unfairly expensive, and often are sold by high pressure door-to-door sales people. Although PACE loans are in a senior position, they carry interest rates higher than the first-mortgage or a home equity loan. The FHA has failed to justify why it supports a program whose interest rates border on predatory and do not follow even basic lending guidelines for consumers.

PACE is authorized within the City of Bakersfield and the County of Kern through the West Riverside Council of Governments. PACE is a financing program available to homeowners that is supposed to make energy renovations easier. It can be unauthorized by a simple majority vote at both the County and City level.

2. Summarize the history of the issue (e.g., when issue originated; actions or inaction by the government on issue; private sector efforts to address issue):

PACE program vendors have been authorized by the City of Bakersfield and County of Kern to operate within those limits for approximately two years. There have not been local private sector actions other than ongoing dialogue with county and city administration that have not produced results. Our Association had hoped for additional federal guidelines or updated legislation, but this remains a serious issue at the local level at this time.

GAD sits on informal California PACE Taskforce comprised of GADS throughout California. Taskforce agrees that this is a prime a time and opportunity to take advantage of given Kern County's extremely conservative make up. See class action lawsuit article attached.

Additional California background:

Local Associations have been fighting PACE authorization at the local level unsuccessfully for the past several years.

California legislature recently passed C.A.R. sponsored AB 2693 (Dababneh) to ensure consumers are aware of the consequences of PACE loans and have the opportunity to rescind after a three-day cooling off period.

The State of California sued FHFA in court but was not successful. (County of Sonoma, et al. v. Federal Housing Finance Agency, 710 F.3d 987 (2013)).

The California Alternative Energy and Transportation Financing Authority (CAEATFA) was authorized by SB 96 in September of 2013 to set up a program to compensate any lenders for any losses suffered as a result of the super priority of a PACE lien, if the lender were forced to foreclose on a property. However, this loss reserve program has not changed the FHFA stance on PACE liens. The Director of the FHFA stated in a letter dated May 1, 2014 that that the program enacted by the state "is not an adequate substitute for...mortgages maintaining a first lien position and FHFA also has concerns about the Reserve Fund's ongoing sustainability."

Most recently, a class action lawsuit has been filed by a resident of L.A. County, the complaint states that defendant, Renovate America administered his home improvement loan which he received through California's residential property assessed clean energy, or PACE, program. The program is part of the for-profit company's Home Energy Renovation Opportunity, or HERO, loan program.

Richardson states that Renovate uses false and deceptive means to carry out the program, including imposing

excessive fees and costs based on inflated interest rates and that it fails to credit borrowers for making payments in a timely manner.

"Defendant Renovate America overcharges virtually every cost, fee and amount due from borrowers in the HERO loan program to maximize its own profits at the expense of HERO loan borrowers, i.e., plaintiff and the other class members," the complaint states.

The lawsuit further asserts that L.A. County shares in the excessive administrative fees charged under HERO, and that the county is a "necessary participant" in the loan program.

According to the complaint, the status of HERO loans, under the PACE program, is such that they are assessed through the county tax collector and have priority over even mortgage payments. "Unlike the subprime mortgage crisis that almost caused the collapse of the U.S. economy in 2007, the PACE bonds are practically risk-free because the bonds are secured by the unpaid contractual assessments and have first-lien status over each borrower's pre-existing mortgage(s)," the lawsuit states.

The suit brings claims of violations of the Truth in Lending Act and the Home Ownership Protection Act, among other claims, and seeks to establish a class of borrowers who signed a contract with L.A. County for a HERO loan for use at their principal residence, estimated at more than 5,000 people.

3. What, specifically, is your end goal (e.g., enactment/defeat of a bill or ordinance; passage/failure of a ballot initiative)?

Our end goal is to have the County of Kern and City of Bakersfield place a moratorium on the operation of PACE or dissolve the resolutions altogether that allow to PACE program vendors to operate within the County until appropriate changes and/or legislation is in fact to protect our members from interruptions in their transactions, as well as protecting homeowners.

Additionally, a successful campaign to place a local moratorium on PACE financing and would force program vendors to make appropriate changes to this type of financing until legislative changes have been made. It would also serve as momentum for other local Associations to follow suit and it would also hopefully be an example for other Associations across the US that are starting to experience problems with PACE or PACE expanding into their areas.

4. What is your Association's position on the issue, and why? Do you have an adopted policy?

The Bakersfield Association has an adopted policy that opposes PACE as a method of financing as it operates within Kern County and the City of Bakersfield currently because it negatively impacts our members, their clients and our community.

5. If a local association, does the state association support your position on the issue and why or why not?

Yes. It is our understanding that C.A.R. does not have an official adopted policy on this issue, but has been involved in by expressing concern, working with CA legislators and providing public comment. C.A.R. believes that HUD was ill advised to approve placing PACE loans in a senior position to FHA first mortgages because it places homebuyers and taxpayers at risk. It does homeowners a disservice by approving a loan product without consumer protections and which is aggressively sold to homeowners who rely on FHA financing for safe and affordable mortgages. PACE loans are unfairly expensive, and often are sold by high pressure door-to-door sales people. Although PACE loans are in a senior position, they carry interest rates higher than the first-mortgage or a home equity loan. C.A.R. feels that the FHA has failed to justify why it supports a program whose interest rates border on predatory and do not follow even basic lending guidelines for consumers. C.A.R. has also voiced concern that this loan product has no minimum disclosures, no underwriting of the borrower, no proof that the borrower has the ability to repay, no marketing limitations, no interest rate or fee caps, no kickback prohibitions; nothing.

Our Association believes that we must stand up and ask our elected officials to assist our members and protect the clients they serve. The community must be aware that this type of financing is taking place in their community and the risks associated with it.

Importance of Issue to REALTORS®

6. Why is the issue important to REALTORS® and the real estate industry?

This issue is of the utmost importance to REALTORS® because it interrupts their transactions, causes confusion, and is dangerous for their clients and community. Members have consistently been reporting negative issues for at least the past year. There is absolutely no oversight for PACE financing.

Associations across the U.S. have been struggling with a wide variety of issues due to PACE financing.

Additionally, if the housing market of the last decade has taught us anything, it's that first-time homeowners, and low- and moderate-income homeowners are the most vulnerable and will be taken advantage of. Sadly, it is they

who the FHA is inviting unregulated PACE lenders to target. Sadly, it is they who the FHA is inviting unregulated PACE lenders to target.

Here is just one example of testimony from one of our members: "We purchased a great home last year in Bakersfield and came to find out 9 months later that there was a \$42,000 air conditioning system installed 2 years ago thru the HERO program. It was to be paid for yearly in taxes, approximately \$7000 per year which almost tripled our taxes. Our mortgage payment doubled to cover the escrow account, and it was a terrible fiasco. The seller was an older woman and never disclosed the renovation. The preliminary report did not show the tax either. We had the title company pursue the seller and settle the issue. We are still waiting 3 months later for settlement. Please find a way to disclose this info before more buyers get nailed with these atrocious costs."

7. How has your Association been involved with the issue?

Yes. We have met with our elected officials and administration many times on this issue. We have held forums and educated our membership. Our Association has been collecting documentation of accounts of transaction interruptions, etc. over the past year. Brokers have been obtaining information from GAD and sharing with agents. We have held several forums and consistently ask members to be sure to share complications from PACE with the Association. Our Association also hosts a Real Estate Anti Fraud Coalition that works with the CA Bureau of Real Estate, District Attorney's office and law enforcement who are also engaged on the issue and investigating possible issues with fraud. Our Association has also submitted op-eds to our local paper.

8. Have your members been active on the issue and/or will you engage them on the issue? If so, how?

Our members are very engaged on this issue at the grassroots level. They seriously oppose this issue and are willing to act by attending meetings, signing petitions, writing letters, and calling elected officials. There is an advisory member team in place to assist with member engagement, advocacy, and assist with a successful campaign.

Extent of Support for Association's Position

9. What other organizations or groups support your position and what are their roles, (e.g. advocacy, financial support)? Have you formed a coalition?

We will be reaching out to our traditional coalition partners- local taxpayer associations, chambers, and home builders. Additionally, we expect additional support from our local DA and the Real Estate Anti-Fraud Coalition.

We will also work with other REALTOR Associations within our County- Ridgecrest and Tehachapi.

10. What groups/coalitions oppose your position and what have been their actions and activities to date?

The only opposition expected is from PACE program vendors and their lobbyists. It is possible to also have some pushback from environmental organizations, but that kind of opposition does not play very well in conservative Kern County. PACE program vendors and their lobbyists have been successful in other counties within California at organizing and lobbying elected officials in the past. A former CA Senator, Dean Florez from Kern County works as a consultant and lobbyist for at least one of the three PACE program vendors operating in Kern County. He does have few remaining Kern County connections and would likely be able to organize opposition to some extent. This is another reason that our campaign would like to retain Yankee Communications

The biggest challenge anticipated will be organization and quick mobilization; that is why we are asking for funding for additional local consulting to execute a quick plan dealing with elected officials, media, members and consumers all at once without allowing the PACE lobbyists to organize our community.

There have been no actions to date. They are not aware of this campaign.

11. What is your assessment of the "winnability" of the issue (include recent polling, public opinion, media editorials, elected officials' positions, etc.)?

This is 100% winnable for our Association. We have held preliminary meetings with local elected officials that are willing to lead the charge on a moratorium of local PACE financing and commit the necessary votes, but are asking for political cover via grassroots mobilization, media and arguments.

Campaign Strategy and Timetable

12. Outline the campaign strategy (polling, ads, phone calls, consulting, etc.):

Our first goal is to obtain the necessary funding to run a successful campaign.

-Immediately hire local public relations, lobbying and political consulting firm Yankee communications to assist and work with GAD on member mobilization, lobbying, elected officials meetings, earned media strategy, development

of collateral and assist with coalition building.

- Develop comprehensive talking points and presentation of "local evidence" from local documentation collected
- Obtain coalition support
- Hold individual meetings with elected officials and city managers, CAO and attorneys
- Obtain commitments from elected officials to make the votes needed and schedule hearings
- Determine date for issue to be calendared on agenda before the end of the year
- Continue grassroots member mobilization and education on the issue simultaneously
- Conduct an earned and paid media campaigns simultaneously
- Create arguments refuting any claims made by opposition
- Obtain commitments from elected officials to make the votes needed and schedule hearings

Additional campaign communications provided by TargetSmart would include:

Online ads and patch-through phone calls –

- There are 7 city council members, all elected by individual district. The phone program assumes we target only 4 in order to gain a majority vote.
- Pre-patch live call to Land Lines only for message intro (approx. 6,933 LL total) - \$3,466.50. These calls prepare the voters for the follow up patch-through calls. Live calls to Wireless phones are cost-prohibitive.
- Patch-through live calls to Land Lines only (~3 patches/day/office over 3 days) - \$1,260. Voters are given the option to be patched through to their council member.
- Light two-week online ad flight citywide plus landing page (i.e., basic website) - \$9,773.50

13. What is the timeline for the campaign, including start dates and end dates, and by when are the issues mobilization funds needed?

Dates for the campaign will be 1/1/2017-3/31/2017. Issues Mobilization Funds needed as soon as possible. We estimate that the length of the campaign will be approximately 8-12 weeks.

Attachments

- [Self-Imposed Liens Against Property](#)
- [LA Resident Files Class Action over HERO Home Improvement Loans](#)
- [Op-Ed: What Homeowners Should Know about PACE](#)
- [Yankee Communications Proposal](#)

14. Does your association have an Issues Fund?

Yes

15. If Yes, how much money is in the fund, and how much do you plan to commit to the campaign?

The Bakersfield Association has committed \$2000. We will also provide time from our contract GAD, staff and Association resources for this campaign. The Ridgecrest Association and the Tehachapi Association has also committed funding totaling \$2500.

16. If a local association, have you requested state financial assistance?

No

17. If yes, how much financial assistance is the state association committing to the campaign?

After speaking with C.A.R., it does not appear to be possible to obtain funds from C.A.R. until next year.

Budget for Total Campaign: Expenses

NAR's Campaign Services offers all of these tools and resources.

Expense Type	Estimated Expenses	Funds from Issues Mobilization Grant	Will use NAR Campaign Services
Direct Mail Services	\$	\$	
Phone Banks and Automated Phone Calls	\$ 4726.50	\$ 4726.50	Yes
Radio: Production	\$ 0	\$ 0	
Radio: Placement	\$ 0	\$ 0	
TV: Production	\$ 0	\$ 0	
TV: Placement	\$ 0	\$ 0	
Print Advertising	\$	\$ 0	
Online Advertising & Social Media	\$ 9773.50	\$ 9773.50	Yes
Website	\$ 0	\$ 0	

Political Grassroots Outreach (e.g., political field teams)	\$	\$ 0
Member Engagement (e.g., calls to action)	\$	\$
Voter Advocacy Mobilization (e.g., field operation)	\$ 0	\$ 0
Polling & Focus Groups***	\$ 0	\$ 0
Research	\$ 0	\$ 0
Voter Lists/Activation Network/Registration Initiative	\$ 0	\$ 0
Consultants	\$ 15,000	\$ 10,500
Brochures, Banners, Billboards, Signs, Bumper Stickers, Etc.	\$	\$
Fundraising Costs	\$ 0	\$ 0
Office Rental	\$ 0	\$ 0
Other (please specify):		
←	\$ 0	\$ 0
TOTAL EXPENSES	\$ 29,500.00	\$ 25,000.00

***For grant applications of \$100,000 or more, polling is required. Consult the NAR staff to discuss in detail.

Projected Funding Sources

Funding Source	Committed	Pledged/Requested
Local Association(s)	\$ 4500	\$
State Association	\$	\$
National Association of REALTORS® (Issues Mobilization Grant Request)	\$ 0	\$ 25000
Coalition Member or Partner:	\$ 0	\$ 0
Coalition Member or Partner:	\$ 0	\$ 0
Coalition Member or Partner:	\$ 0	\$ 0
Other Funding Source:	\$ 0	\$ 0
Other Funding Source:	\$ 0	\$ 0
TOTAL FUNDING	\$ 4,500.00	\$ 25,000.00

Staff/Consultants Recommendation

Recommendation

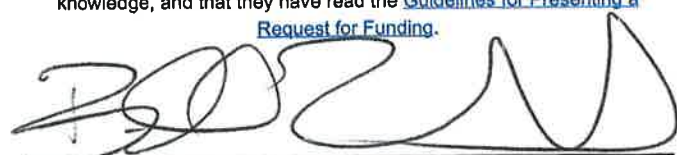
Approval

Rationale

The Association has worked with NAR staff to develop a campaign plan that is well-designed to achieve the legislative goal.

Acknowledgments and Signatures

In submitting this application, the undersigned confirm that the information contained in this application is up-to-date and accurate to the best of their knowledge, and that they have read the [Guidelines for Presenting a Request for Funding](#).



Signature of Association/Board President
(top elected official)

State Association signature below indicates support of Application, if made by a Local Association. If State Association does not support the Local Association's application, it must submit an explanation of its position.



Signature of State President (top elected official)

Sande Jay

Signature of Association/Board Executive Officer
(top staff official)