

Residential PACE Consumer Protection Task Force

DRAFT Minutes

Thursday, August 24, 2017

Present: Anne O'Connor (Chair), Dylan Sievers (delegate of Will Nissen, Fresh Energy), Janet Johnson (MN Bankers Assn), Ryan Smith (MN Credit Union Network), Julie Padilla (Renovate America), Lily Osborne (delegate of Logan O'Grady, Clean Energy Economy Minnesota), Craig Johnson (League of MN Cities), Chris Duffrin (Center for Energy & Environment), Annie Levenson-Falk (Citizens Utility Board), Paul Eger (MN Realtors), Peter Klein (St. Paul Port Authority), Mary Jo George (AARP), Emily Murray (Assn of MN Counties), Sue Basiago (MN Land Title Assn), John Kearney (MnSEIA)

Chair O'Connor called the meeting of the Task Force to order at 9:00 AM

AGENDA:

- Welcome
- Introductions
- Disclosures Check List
- Small Group Discussion: Disclosures
- Small Group Discussion: Point-of-Sale
- Public Comment
- Group Discussion
- Adjourn

The Task Force approved minutes from the meetings of August 9, 2017.

Disclosures Check List

Matt Boyer, Audit Director with the Commerce Department, went over sample mortgage loan estimate and closing disclosures. The sample forms were included in members' folders.

Comments/Questions:

- During the discussion, a Member reiterated that Minnesota does not allow prepayment penalties

- A Member requested that the group also look at Know Before You Owe, in addition to the mortgage disclosures, to keep in mind during the disclosure discussions.
- *Question:* Regarding the Closing Document, in the area that indicates whether the amount can increase, if there is a 'Yes' indicated, would it also include more information?
 - *Response:* The 'Yes' would also direct you to the mortgage document.
- *Question:* Can PACE be escrowed?
 - *Response:* Yes
- *Question:* What would be different in terms of disclosure for an unsecured loan?
 - *Response:* Unsecured installment loans would still fall under TILA. They also have advertising standards.
 - *Follow-up Question:* Do these standards apply to all loan types across the board?
 - *Response:* It depends on the loan type. If it is a close-ended loan over \$1,000 then standards apply.
 - *Follow-up Question:* What about credit cards?
 - *Response:* There is not a separate disclosure for each transaction. They do disclose how long it will take the balance to be paid off if only paying minimum amount.
 - *Follow-up:* A member stated that most people who do not use Residential PACE are paying for their projects with credit cards, not installment loans.
- *Question:* What do disclosures look like for other energy-related loans, such as those used by CEE?
 - *Response from CEE:* If they are secured loans, they follow the disclosures that Matt went over. PACE is most like a secured loan because it puts a lien on the home and should be talked about as a secured loan.

Small Group Disclosures & Point of Sale

The Task Force broke into small groups to discuss disclosures and point-of-sale concerns. Sample questions give for the small groups to discuss included:

- Which disclosures are relevant to Residential PACE and should be included? As you think about this, refer to the handouts provided today from Commerce staff and the DOE.
- What additional or less information from the sample disclosures is required for the Residential PACE model?
- What is your definition of Point of Sale confusion?
- What do you expect the contractor to disclose while in a consumer's home?
- What should be required by contractors to discuss with consumers?

Group Discussion & Public Comment

After small group discussions, the task force reconvened to report out on their conversations and take public comment.

Disclosures Report

Items of discussion included:

- Group 1:
 - Disclosure should include a reference on who is actually financing
 - How should and energy audit be disclosed since it is a requirement under MN PACE statute?
 - Origination fees should be broken down
 - Underwriting costs and fees should be easy to understand
 - The disclosure should highlight that prepayment penalties are not allowed
- Group 2:
 - Disclosure should be modeled after CA's disclosure
 - Highlight prepayment penalties are not allowed
 - Include a 3-day rescission period
 - Explain what happens at the point of sale
 - Disclose interest
 - Include a notice stating that missed payments on a lien-held home can result in foreclosure
 - Include a statement indicating that energy or cost savings are not guaranteed as a result of the project
 - The disclosure should be short
 - Be clear whether the financing is on the lump sum or escrow
- Group 3:
 - The Task Force should look at PACENation's disclosure recommendations
 - Terms of financing should be disclosed
 - Disclosures should be in plain language and easily understandable
- Group 4:
 - There should be a statement titled "property assessment" disclosing that not paying the assessment could result in loss of the property
 - Projected changes to property tax assessment should be included
 - The Disclosure should include an amortization schedule
 - Energy audit costs should be included
- Public Comment:
 - The Task Force should not invent the wheel in terms of disclosures. Existing disclosures should be utilized
- Additional items discussed without consensus include:
 - Should the disclosure include other available financing options?
 - Should lender consent or acknowledgement be required?

Members requested a more thorough overview on the step-by-step process involved with the program and its timeline for a future meeting.

Point-of-Sale Report

Items of discussion included:

- Group 1:

- What does the Point-of-Sale look like when you sell your home after PACE financing attached?
- What does the contractor say and/or do while in the home?
 - *Response from Member:* Contractors are typically providing other finance options in addition to PACE. The consumer signs off on the financing, they have a confirmation call with the administrator, and a 3-day rescission period is offered
- How does the energy auditor requirement affect the process? Where does it fit?
- Paper copies of the contract and additional materials should be provided
- How do we help vulnerable and older adults?
- When does the final sign-off happen?
- Point-of-sale can mean many different things: during homeowner signing-up for PACE financing, during when the original PACE homeowner sells their home, and during subsequent sales
- Group 2:
 - What is the timeline of a sale?
 - Who is financing the sale, who pays, when, and what is a lien should all be disclosed
 - When does the energy audit happen?
 - Are there permit fees charged? If so, are they disclosed?
 - Paper documents should be provided
 - Contractors must be licensed
- Group 3:
 - MN has programs to help low-income homeowners. Should there be a requirement that these programs are disclosed? Financing could proceed after disclosure, but the rescission period would give the homeowner time to look into these programs.
- Group 4:
 - How is the 3-day rescission period handled, proactively or reactive?
 - Contractors should be expected to disclose what work is being done, who is doing the work, and when the work will be done
 - Customers should be given the option to sign documents and receive copies of the contract by paper form. If a customer chooses paper, that choice must carry over to other documents given the customer.
 - If a customer opts for electronic versions, they ability to accept electronic documents should be verified (i.e. verification of an email address).
 - What type of acknowledgement or consent is needed from the existing mortgage holder?
- Public Comment:
 - MN Homeownership Center: Consumers should be told about alternative financing options. Anyone accepting PACE financing should be required to go through financial counseling.
 - *Response from Member:* Homeowners do no need to go through mortgage counseling to obtain a mortgage.
 - *Response from another Member:* There are some instances of programs (FHA) that require financial counseling.
 - *Response from Member:* Remember that most often these are replacements of failing appliances. They agree that it would be all right to provide a list of

alternate financing options for low-income homeowners. If required, lists of alternative financing options should be required regardless of whether it is PACE financing.

Additional Comments/Questions:

- A Member stated that they were not finding the \$10-12,000 average assessment amount discussed.
 - *Response:* That number is seen in Missouri. Since MO is a Midwestern state, it makes more sense to use that number when comparing with MN than comparing to CA. The number is tied to the cost of homes in the area and services requested.
- A Member wants the Task Force to think about how much solar costs per home since solar is big in MN.
 - *Response:* Remember that there is a 20% cap on the assessed value of the property
- *Question from Audience:* Do contractors get commissions?
 - *Response:* No
 - *Follow-up Question:* Is this the law or a policy?
 - *Response from Renovate America:* This is Renovate America's policy, but they would advocate for this becoming law.
- A Member wanted to remind the group that a PACE assessment is not the same as a loan under RESPA
- A Member commented that they were still confused on the timeline. How does it work if it is the contractor selling the loan product and the decision is made while the contractor is still in the home?
 - *Response:* Chair O'Connor indicated that week 6 might be a good spot to revisit the timeline overview.
- A Member wants to better understand whether there is a concrete percentage that can be pointed to of those that use PACE in an emergency.
 - *Response:* 70% of PACE consumers are using the funding for replacement projects. They do not have a specific percentage on emergencies, though. The same protections are in place regardless of the situation, though.
- A Member commented that standards should be set regarding disclosing different financing options and interest rates of those options.
 - *Response:* Contractors walk through the disclosures. They would not know all the different types of financing options or have all the different rates available to disclose. Contractors should not be required to always give best options on financing. This Member would be all right with contractor giving information on low-income options, though.
- A Member stated that they did not see anything discussed that was not address in the PACENation disclosure recommendations. They would like the Task Force to revisit this document. PACENation would also revise their recommendations more often than the DOE would.
 - *Response:* Some members voiced agreement with using PACENation disclosure recommendations as a started point, but other members indicated that they were not entirely sure that that should be the route taken.