

## Residential PACE Consumer Protection Task Force

### DRAFT Minutes

Thursday, September 21, 2017

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

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

#### **AGENDA:**

- Welcome
- Introductions
- Ability to Repay Overview
- Homeowner Assistance Programs: MN Housing Finance Agency Presentation
- Small Group Breakouts: PACE Timeline
- Group Discussion and Public Comment
- Legislation Drafting Work Group
- Adjourn

The Task Force approved minutes from the meetings of August 24, 2017.

#### **Ability to Repay Overview**

Mark Hastie, Director of Non-Depository Financial Institutions with the Commerce Department, gave a presentation on Ability to Repay. The presentation was included in members' folders.

Comments/Questions:

- *Question:* Is the CA bill discussed the final version of the legislation?

- *Response:* Yes, the presented bill is the version that went to the Governor, who is expected to sign.
- *Question:* What percentage of mortgages go into foreclosure?
  - *Response:* Mark did not have the statistics available
- A member commented that even with the most consumer protections available, there could still be losses. No legislation will be foolproof.
- A member requested statistics on foreclosure rates pre and post-recession. They commented that consumer protections put in place after the height of foreclosures are working and have led to fewer foreclosures.
- A member stated that CA has passed landmark reforms for their program. The framework used by CA has already been negotiated by CA's version of many of the same groups that are on this Task Force. Renovate America is supportive of their model.

### **Homeowner Assistance Programs: MN Housing Finance Agency Presentation**

Katie Topinka, Director of Government Affairs for the MN Housing Finance Agency (MHFA) gave an overview of homeowner assistance programs that can be used for energy efficiency from MHFA.

Highlights from Katie's presentation:

- All of MHFA's programs are offered through private lenders.
- The Fix-Up program is a home improvement program that offers loans through private or non-profit lenders. The program uses an industry standard underwriting process. The program has an income limit of \$104,000 per year and can be used for a range of home improvement options.
  - If the improvement is energy efficiency specific, income limits can be waived for unsecured financing due to MHFA's partnership with loan loss money from the MN Commerce Department.
  - *Question:* What is the interest rate for this program?
    - *Response:* 4.99%
- MHFA also has a Rehabilitation loan program, which is a deferred loan with a 15-year term with the option to be forgiven. To qualify, you must be under 30% of the area median income level.
  - Many seniors take advantage of this program.
  - CAP agencies often administer this program and this program can be paired with weatherization assistance.
  - \$27,000/year is the maximum amount that can be received through this loan program.
- The Emergency Loan Program can only be used for emergencies. This loan program relies on the same income requirement as above.
- Both the Rehab and Emergency Loan programs are funded with money from the state legislature and are forgivable. Neither has an interest rate attached.
- MHFA has additional information regarding these programs on their website. Katie will also follow-up with more information that can be sent to the Task Force.

Comments/Questions:

- *Question:* Is there a limit on the amount in the fund that can be offered as loans?

- *Response:* Yes, the rehab and emergency loan programs typically run out of funds. Since the Fix-Up program needs to be repaid, there is more flexibility.
- *Question:* Is the Fix-up program specific to energy efficiency?
  - *Response:* No, the Fix-up program can be used for typical home improvements.

### **Small Group Breakouts: PACE Timeline**

Megan Verdeja with the Commerce Department gave a brief walk-thru of the PACE timeline document provided in members' folders. Members then broke into small groups to discuss the order of the timeline and which consumer protections should be incorporated along with each step.

### **Group Discussion and Public Comment**

After the small group breakouts, the Task Force reconvened as a full body to report on the small group discussions.

Here are highlights from the reports:

- Group 1:
  - Group 1 would like more analysis of the California law
  - Steps 1-9 can all happen on Day One
  - Assuming there are ability to repay protections enacted, Step 5 may need to be lengthened to allow for an underwriting period.
  - Step 1 should include the option of a homeowner calling a contractor directly for a project.
  - Consumer protections that should be looked at for steps 1-5 include restrictions for PACE-approved contractors, including training requirements and what contractors can/cannot say while in the home
  - Step 2 should include making the homeowner aware of additional options, such as weatherization assistance or other low-income programs
  - Step 3: the group still have many questions, such as, who performs the energy audit? Can energy audit software be used? They pointed out that Minnesota is the only state the Task Force has discussed that requires an energy audit in statute.
  - Step 4 and 5: The group requested a more detailed side-by-side of the Truth in Lending Act (TILA), MN law and CA law to help come up with the maximum consumer protections available.
  - Steps 6-9: and underwriting period should be included. In addition, how long should the rescission period be?
  - Step 13: How do people know their balance and who is in charge of providing the information?
  - Additional questions: How do these steps change for escrows or emergencies?
- Group 2:
  - Group 2 agreed with the order until step 5. They then thought the order of steps should be: 5, 8, 7, 6, 9
  - Step 6 should be worded as a notification of lender, instead of asking permission from lender

- Question: How would a contractor screen for low-income qualification?
- Step 14 should be added to address regulatory oversight
- Step 11: should there be a sign-off on the energy audit? Were the correct products installed?
- Group 3:
  - Group 3 believes the Task Force should start with the California legislation.
  - Step 3: as written, this step happens prior to installation. Group 3 thought there should be a possibility for this step to happen after installation in an emergency.
  - Step 4: a disclosure should be added to identify which Agency or third party the homeowner can call with issues. It should also state a warning that the homeowner can lose the house due to missed payments.
  - A consumer protection that should be added is to verify that the homeowner has the ability to receive electronic communications if that is the means the contractor signs them up with.
  - Group 3 agreed with group 4 with needing a step to address regulatory oversight, but they believe it should happen earlier than the end of the process.
  - Group 3 also discussed the timing of the energy audit and whether the timing is different based on emergency versus non-emergency situations.
  - *Question for Group 3:* Was the group thinking that the audit needs to be performed by an independent party?
    - *Response:* The group did not come to consensus. They are aware that Renovate America utilizes a software program and that there may be other methods that exist.
    - *Follow-up Question:* Is the energy audit software independent?
      - ❖ *Response:* Under MN statute, the energy audit needs to be done by a certified energy auditor. Software is a separate issue and it is unclear whether they do/will meet the definition of certified.
      - ❖ AARP commented that they are very interested in the third-party audit issue.
- Group 4:
  - In regards to Step 1, Group 4 pointed out that some local ordinances prohibit cold calling.
  - In regards to the energy audit requirement, having a pre-approved energy auditor list from the Commerce Department may solve some concerns.
    - *Response:* It was decided to table the energy audit discussion until the October 5<sup>th</sup> meeting when the Task Force will hear a presentation on energy audits.
  - How are solar or renewable energy projects handled?
    - *Response:* Addressed under the current feasibility study
  - Should Step 9 include an emergency waiver option? What constitutes an emergency?
    - *Comment:* People are the most vulnerable for exploitation during emergencies.
  - *Question:* How does the energy audit deal with solar projects?
    - *Response:* Energy efficiency and renewable energy are currently separated in statute. That separation should be maintained and feasibility should be looked at instead for renewable energy projects.

## **Legislation Drafting Work Group**

Chair O'Connor asked the Task Force to start thinking about how to proceed with drafting the final report and legislation. She asked for input on whether members thought that a draft legislation working group should be convened outside of the regular Task Force to start the drafting process.

Comments/Questions:

- *Comment:* There are outstanding questions, including the request for more information on legal and contractual relationships existing within the PACE structure. The Task Force needs more analysis before it begins to discuss moving forward with drafting.
- *Comment:* If there are outstanding questions, we can look at California's legislation and use that as a starting point.
  - *Response:* The Member disagrees that California should be the starting point. There are other states' laws that the Task Force should look at.
  - *Follow-up:* California has the most experience with Residential PACE and their legislature has already looked at all these same issues.
- *Question:* The Member would like to know where the big sticking points between groups are and where they may already be some consensus.
  - *Response:* This has not been identified. The Task Force will consider how to flush out these questions.