



June 15, 2018

Mayor and City Councilmembers  
City of Hayward  
777 B Street  
Hayward, CA 94541

Re: July 17, 2018 City Council Agenda Item pertaining to the CaliforniaFIRST PACE financing program

Honorable Mayor Halliday and Councilmembers Lamnin, Márquez, Mendall, Peixoto, Salinas, and Zermeño:

My name Jonathan Kevles. I work for Renew Financial. Our company is the Program Administrator for the CaliforniaFIRST PACE financing program.

**I respectfully request that you vote to allow the CaliforniaFIRST PACE program to continue operating in the City of Hayward.**

While I would prefer, of course, that this item were not on your agenda, the Sustainability Committee's May 14 action in turn spurred us to action. By the date of your July 17 meeting, we will have implemented all of the new measures that are detailed in the attached memorandum. Those measures are focused on assuring that homeowners are accurately informed about PACE, especially about the role of the City of Hayward in PACE. In addition, all of these measures will be adopted across California, thus in having spurred us to action, you are a catalyst for improving our program well beyond Hayward's city boundaries.

As I wrote recently to Sustainability Committee Chair Mendall, I hope that our sincere and substantive efforts to ensure that accurate information about PACE gets to homeowners – from all channels (contractors, lead generation companies, and others) – will lead you to allow us to continue to serve your constituents.

In closing, my thanks to city staff for graciously offering me the opportunity to provide this letter for inclusion in the staff report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Kevles", is written over a light gray rectangular background.

Jonathan Kevles  
Senior Vice President  
Renew Financial

Attachments: Memorandum on PACE marketing  
Fact sheet on recent PACE-related legislation

Cc: Kelly McAdoo, City Manager  
Alex Ameri, Director of Utilities and Environmental Services  
Erik Pearson, Environmental Services Manager



TO: City of Hayward  
FROM: Jonathan Kevles, Renew Financial  
RE: PACE Marketing Efforts  
DATE: June 15, 2018

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Renew Financial is aware that over the last few months, a home improvement contractor and a lead generation marketing company have been involved in a marketing campaign that had the potential to mislead homeowners in the City of Hayward about PACE financing, in particular about the role of the City of Hayward in the program. We understand that you have felt frustration when receiving calls from constituents related to the marketing campaign. We appreciate that you brought these concerns to our attention. This memorandum serves to provide some background, let you know what new additional measures we are taking to monitor and control third-party marketing, and inform you on actions we have already taken.

#### **Background and Early Actions Taken by Renew Financial with respect to the Postcard Campaign**

- Renew Financial had no involvement in the creation, distribution, or funding of the postcard marketing campaign. Our only connection to the campaign was that the companies responsible for the campaign placed our logo on the landing page of the web site to which the postcards referred homeowners. When we became aware of the unauthorized use of our logo, we demanded that the logo be removed, and confirmed the companies' compliance with this demand.
- We identified only one contractor as having been responsible for the postcards. Our investigation revealed that the contractor utilized a lead generation marketing firm. That firm was responsible for mailing the postcards. We sent a cease and desist letter to the lead generation firm in April, 2018.
- The contractor has terminated its use of the misleading postcards.

#### **New Measures We Area Taking To Monitor and Control Marketing Paid for by Home Improvement Contractors**

- **CONSEQUENCES FOR CONTRACTORS:** We have executed an addendum to our services agreement with the CaliforniaFIRST program sponsor, the California Statewide Communities Development Authority (CSCDA). This addendum includes the following key provisions:
  - Any contractor whom Renew Financial has determined uses false or misleading marketing efforts, including but not limited to using lead generating companies to distribute postcards with content that implies that the federal, state, or local government, or any governmental entity other than CSCDA, provides the program, shall not be included in the program's list of Eligible Contractors.
  - Renew Financial shall not approve a property owner application for program funding if such application: (a) does not identify an Eligible Contractor or (b) identifies a contractor who Renew Financial has determined procured the work through marketing efforts that reasonably



- could be interpreted as implying that the federal, state, or local government, or any governmental entity other than CSCDA, provides the program.
  - CSCDA will not authorize an assessment against a property, record a lien or otherwise assist in providing program funding for any application approved in violation of the above.
- **INCREASED CONTRACTOR TRAINING AND GUIDANCE ON MARKETING STANDARDS**
  - Renew Financial is adding content to our contractor training materials that will emphasize the following:
    - Marketing content of any kind delivered through any media that misrepresents the role of local government in PACE financing is strictly prohibited.
    - Contractors must inquire of any third party lead generation firm (whom they are considering to hire to create leads for them or from whom they may purchase leads) the tactics that the firm used or will use to generate the leads.
    - The training will provide clear examples of what may be considered as a misleading tactic or as a misrepresentation of the role of local government in PACE financing.
    - What the consequences are for contractors who violate our marketing standards (see CSCDA Addendum referenced above).
  - Renew Financial is expanding our Marketing Guidelines to include:
    - A warning about potentially misleading practices employed by lead generation firms to source leads for their clients
    - More specificity about what qualifies as misleading marketing practices, with examples, e.g. graphics and language that may mislead people to believe that PACE is free or subsidized by the local government.
- **LOCAL OVERSIGHT:** Renew Financial recognizes that the City of Hayward has been concerned that we have not been a signatory to the Regional Collaborative Services Agreement (RCSA) that other PACE providers have signed. We are pleased to let you know that **we executed the RCSA on June 4, 2018.**<sup>1</sup>

For those steps not yet taken, we commit to implementing them by the July 15, 2018.

Renew Financial welcomes additional ideas for ensuring clear communication with consumers about the PACE program. Please keep the lines of communication open to share ideas, and to inform us of any concerns.

#### **Early Actions Taken to Stop the Postcard Campaign**

- In March, 2018, Renew Financial informed ABAG and the jurisdictions that had informed us of the postcard campaign of the following:
  - That Renew Financial does not have any direct relationship with the lead generation firm behind the postcards.
  - That Renew Financial's contractors frequently work with marketing agencies and lead generation providers to help drive their business (as is and has been common for decades

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<sup>1</sup> We are in the queue with the General Counsel's Office at Bay Area Metro (under which ABAG is now housed) for counter-signature.



- throughout the home improvement industry), and that Renew Financial typically does not have visibility to these individual relationships.
- Nonetheless, that Renew Financial is strongly committed to ensuring that PACE is a viable, long-term financing solution that homeowners and local governments can trust and rely upon, and that homeowners understand thoroughly how the PACE program works. We take seriously any marketing practices that jeopardize that trust and that may confuse homeowners about how the program works.
  - That we had taken the following steps to address the issue:
    - Identified the contractor participating in CaliforniaFIRST who appeared to be working with the lead generation marketing company in question.
    - Worked directly with the contractor to remediate any effects of these postcards.
    - Reminded our contractors that when they sign up to participate in CaliforniaFIRST, they agree to abide by our marketing guidelines, that these guidelines clearly prohibit misleading marketing language, that contractors agree to follow applicable marketing and advertising law, and that if these contractors are unwilling to immediately stop using these misleading materials, they will face disciplinary action that could lead to termination from our program.
    - Emailed all of our Northern California contractors to reiterate the expectation that they only use clear and transparent marketing practices with regards to PACE, and to remind them that they are responsible for the actions of any third-party they may hire for marketing or other purposes.
    - Reinforced this message through our sales representatives, who interact regularly with our contractors, by reaching out to them directly.
    - Contacted the owners of the lead generation marketing company directly and explained the concerns with their marketing materials and demanded they change their tactics.
  - We reminded local governments of some important consumer protections that exist for the express purpose of ensuring consumers understand the terms and conditions of the PACE Program. These protections, all now codified in state statute through legislation that we strongly supported, include (legislative fact sheet attached):
    - Every property owner will receive a verification call before he or she signs a CaliforniaFIRST assessment contract. During this call, we explain, among other items, the financing amount and that it will be repaid on the property owner's tax bill.
      - This call provides an opportunity to correct any misconceptions before the property owner has committed to the financing or before work on the project has begun.
    - Every property owner must sign a detailed disclosure form, which is modeled after the mortgage industry's nationally-required Know-Before-You-Owe form.
    - All property owners have a three-day right to cancel their assessment contract after they sign it. Cancelling their CaliforniaFIRST assessment may also cancel the home improvement contract, if the homeowner so chooses (i.e. if the homeowner does not have alternative financing available).



- Underwriting now requires an assessment of the property owner's ability to repay the PACE assessment.

In addition, Renew Financial's new property owner portal gives our property owners more control over the financing process and they have many opportunities to interact with us and ask questions about how CaliforniaFIRST works.

We will continue to monitor marketing materials related to the PACE program, and we ask that you continue to send any information you have about marketing materials that concern you.

Please feel free to contact me with any news, questions, concerns, and ideas:

- [jkegles@renewfinancial.com](mailto:jkegles@renewfinancial.com)
- 213-610-6805 (mobile)
- 510-350-3709 (work)



## FACT SHEET ON CALIFORNIA SB 242 & AB 1284

### *A Comprehensive Consumer Protection, Underwriting, and Regulatory Framework for Property Assessed Clean Energy*

#### **Importance of PACE**

PACE financing in local communities gives homeowners more private-sector options to make their homes more energy efficient and resilient. In the process, PACE has also created tens of thousands of high-quality, sustainable construction-sector jobs and has encouraged significant local economic growth, all through a completely voluntary program provided at no cost to public budgets.

Elected officials at the city and county level choose to make the program available to local homeowners, which gives residents another option to finance energy and efficiency investments in their homes. Participating homeowners can benefit from the improvements immediately and pay back the costs over time at a fixed, competitive interest rate through their property tax bill.

With PACE, contractors are paid only after the work is complete and the homeowner has signed off, allowing for PACE providers to have oversight and ability to help resolve workmanship or other contracting issues. This innovative financing solution allows retrofits that make homes more comfortable, efficient, and potentially more valuable.

#### **An Enforceable Consumer Protection Framework for PACE**

PACE is offered in most cases initially through home improvement contractors that provide HVAC, solar, roof, door, window, and other services. Marketing practices, disclosures and other customer support mechanisms have evolved in the market over time as the private sector companies providing PACE and their local government partners have identified gaps and worked to establish consumer protections. Not all private sector PACE programs have been required to have the same protections. But in September 2016, that began to change, as Governor Jerry Brown signed into law AB 2693, authored by Assembly Member Matt Dababneh, which codified state standards for written disclosures a property owner choosing PACE must receive prior to signing a contract for PACE financing. AB 2693 mandated a three-day right to cancel as well as written disclosures for PACE customers modeled on the federal Know-Before-You-Owe form used in mortgage lending.

**This year the California Legislature took on two bills – SB 242, co-authored by Senator Nancy Skinner and Assembly Member Matt Dababneh, and AB 1284, co-authored by Assembly Member Dababneh, Senator Skinner, and Assembly Member Ian Calderon -- that build on AB 2693 to establish a clear, enforceable statewide consumer protection framework that will help ensure positive outcomes for homeowners, and the continued viability and sustainability of PACE.**



## Key Changes to PACE in SB 242 and AB 1284

**SB 242 (Skinner-Dababneh)**, signed into law by the Governor, would establish state-of-the-art consumer protections, further setting PACE apart from other forms of financing. The legislation:

- Requires a **recorded, live, confirmation of terms call** between the PACE provider and property owner before they sign their assessment contract, as a reinforcement to the written disclosures.
- Requires that PACE providers who undertake the confirmation of terms call with a property owner in one of the five major non-English languages in California – Spanish, Chinese, Korean, Tagalog and Vietnamese – also provide the property owner with their contractual documents in that language.
- Establishes an **expanded “right to cancel”** for a property owner using PACE, enabling the property owner to cancel their separate home improvement contract if they cancel their PACE financing within their three-day right to cancel – protecting them from being obligated to pay for a project without a viable means of financing.
- Establishes a **ban on compensating contractors beyond the cost of the home improvement project**, as well as prohibiting paying for contractor co-marketing and limiting contractor reimbursements to \$100 for bona fide training expenses.
- Requires contractors to quote a property owner the **same price as cash** for a home improvement project using PACE financing.
- Prevents PACE providers from disclosing to contractors the amount of funds the property owner is eligible for under a PACE assessment.
- Establishes data **reporting requirements to local government partners**, including data that speaks to the projected energy and water savings and local economic and job impacts, as well as on categories of products installed and homeowners served.

**AB 1284 (Dababneh-Skinner-Calderon)**, also signed into law by the Governor, would significantly enhance PACE underwriting, regulate PACE at the state level, and enforce compliance with all PACE laws by PACE administrators and individual contractors. The legislation:

- **Strengthens and standardizes the current underwriting** standards in PACE based on home equity and on-time mortgage and tax payment history; and requires that the most accurate **Automated Valuation Models** are used for establishing the value of the home.



- Establishes new underwriting standards predicated on **income verification and ability-to-pay** to determine that property owners can meet their annual PACE obligation in addition to their current debt obligations and basic household expenses.
- Establishes a **licensing and regulatory framework for the PACE industry in California**, which will be subject to oversight by the California Department of Business Oversight (DBO).
- Requires PACE providers to **undergo background investigations and satisfy net worth requirements in order to obtain a license**.
- Requires PACE providers to enroll and **train home improvement contractors and their individual sales reps**; and holds PACE providers **accountable for screening and monitoring** the contractors and individual sales reps enrolled in their programs.
- Empowers the DBO **with enforcement authority** to take action against PACE providers who do not meet their obligations to promote the interests of consumers, which includes prohibiting PACE providers from working with contractors or individual sales reps who engage in activity harmful to consumers.

### A Broad Coalition of Support

The following groups and elected officials have voiced support:

#### *Businesses and Business Associations*

- Bay Area Council (1284)
- CalAsian Chamber of Commerce
- California Association of County Treasurers and Tax Collectors (1284)
- California Bankers Association (1284)
- California Building Industry Association
- California Business Properties Association
- California Chamber of Commerce (1284)
- California Credit Union League (1284)
- California Escrow Association (1284)
- California Hispanic Chamber of Commerce (1284)
- California Land Title Association (1284)
- California Mortgage Bankers Association (1284)
- Dividend Solar
- Energy Efficient Equity (1284)
- National Federation of Independent Business
- Orange County Business Council (1284)
- Owens Corning
- PACENation
- Renew Financial
- Renovate America
- TechNet (1284)
- United Trustees Association (1284)





### *Renewable Energy/Environmental Organizations*

- Advanced Energy Economy
- Brightline Defense
- Build It Green
- California Energy Storage Association
- California Solar Energy Industries Association (CALSEIA)
- Center for Sustainable Energy
- Cleantech San Diego
- Climate Action Campaign
- Efficiency Demand Management Council (242)
- Environmental Defense Fund
- League of Conservation Voters California (242)
- Natural Resources Defense Council
- Sierra Club California
- Vote Solar

### *Local Government Organizations*

- More than 70 local government elected officials
- California League of Cities (242)
- California State Association of Counties
- Local Government Commission
- Los Angeles County
- Rural County Representatives of California (242)
- South Bay Cities Council of Governments (242)
- Southern California Association of Governments (242)
- Western Riverside Council of Governments (242)