# Housing and Consumer Groups Statement on California A.B. 1284's PACE Loan Ability-to-Repay Provisions

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***Numerous Loopholes Leave Homeowners and California Communities at Risk***

Today, the California Assembly is scheduled to vote on Assembly Bill 1284, a wide-ranging bill to regulate aspects of Property Assessed Clean Energy (PACE) loans. The bill in part addresses how PACE administrators should assess a homeowner's ability to repay the loan, how the administrator should evaluate the value of the property, and other underwriting requirements regarding the property and property owner.

**Thirteen California and national advocacy groups issued the following statement.**

**California-based groups include:** National Housing Law Project, Housing and Economic Rights Advocates (HERA), Elder Law & Advocacy, Fair Housing Council of Riverside County, Inc., Fair Housing Council of the San Fernando Valley, Fair Housing Foundation, Inland Fair Housing and Mediation Board, Fair Housing NAPA Valley, Housing Rights Center, Fair Housing Advocates of Northern California, and the Fair Housing Council of Orange County.
**National groups include:** National Consumer Law Center (on behalf of its low-income clients), and the National Fair Housing Alliance.

## Group Statement:

By adopting a set of rules with troublesome loopholes and untested approaches, AB 1284 highlights the need for a continuing public conversation about the affordability of PACE loans and the need for meaningful consumer protections. While acknowledging that PACE loans should come with an evaluation of the borrower's ability to repay the borrowed funds, AB 1284 falls short and allows abusive practices to continue that already have placed too many PACE borrowers at risk of foreclosure. PACE loans warrant the same protections consumers expect when they take out any other loan secured by their home.

The bill:

- obligates the homeowner for thousands of dollars before steps have been taken to ensure the loan is affordable or meets other qualifications, with no clear method for rescinding the transaction if mistakes were made;
- creates an overly broad "emergency" exception that would permit many PACE loans to be made based on unverified, stated income;
- fails to prevent the known abuse of selling homeowners multiple PACE loans close in time, thereby avoiding ability-to-repay safeguards;
- enhances the risk that homeowners may owe more on their property than it is worth by combining a very high permitted maximum loan-to-value ratio with an untested regime for using automated valuations even where the results are unreliable; and
- provides vague standards for ensuring a homeowner can afford a PACE loan and that income

is properly verified.

Energy efficiency is a pivotal tool for reducing energy costs and enhancing home energy security in low-income households. But PACE loans are inappropriate for homeowners who can secure free or lower cost efficiency programs, such as the Weatherization Assistance Program, which should be the preferred method for helping these homeowners. Further, PACE loans with inadequate consumer protections pose a risk to any PACE customer, as well as to communities and the broader market.

To date, there are other important issues unaddressed in California beyond the critical failure to insure borrowers can afford a PACE loan and other mortgage expenses. Without addressing such issues, PACE loans remain an outlier in the state’s mortgage market, with great potential for harming homeowners and communities.

Needed further protections include:

- a proper mortgage disclosure regime that includes advance notices;
- protections against forced arbitration;
- protections from fraudulent contractor conduct;
- foreclosure prevention measures;
- protections against high tax penalties on unaffordable loans;
- foreclosure defenses for harmed homeowners;
- protections from electronic signature abuses;
- screening of low-income households for free or low-cost weatherization or energy-efficiency programs;
- accountability for promised energy savings through an energy audit to quantify project costs and energy savings;
- lien subordination to ensure that homeowners can refinance their mortgages and to give PACE lenders incentive to make affordable loans; and
- a direct private right of action for homeowners to seek damages from contractors and program administrators who violate PACE rules.

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