



Residential Property Assessed Clean Energy (PACE) Loans: The Perils of Easy Money for Clean Energy Improvements

September 2017

Property Assessed Clean Energy (PACE) programs offer loans for energy efficient home improvements, such as solar panels, HVAC systems, and energy efficient windows. PACE loans are offered through home improvement contractors and are secured by a property tax lien. That property tax lien is collected through a property tax assessment, and it takes priority over any existing mortgage. PACE programs must be authorized by state and local governments, but PACE programs are privately run with little or no government oversight.¹

Over the last two years there has been a sharp increase in homeowners seeking assistance from legal services and other organizations in relation to PACE loans. It is becoming more apparent that the laudable goal of improving home energy efficiency is being overshadowed by the lack of adequate consumer protection for these loans. There are growing signs that unscrupulous home improvement contractors are selling unnecessary and unwanted home improvements, at times with little connection to deep energy savings, through misrepresentation and in some cases outright fraud. The weak PACE loan regulation enables these contractors to saddle homeowners with debt they cannot afford and which puts their homes at risk for foreclosure.

The National Consumer Law Center (NCLC) is collecting stories described to us by numerous consumer advocates or reported in the news media or online. The homeowner stories that were shared with us demonstrate disturbing patterns. We summarize those patterns with numerical references to the stories.

Unaffordable Loans without Screening for Ability to Pay

While there are minimal underwriting criteria for PACE loans, a verifiable ability-to-pay is not among them.² Instead, many narratives show unaffordable home loans made to low-income homeowners on fixed incomes with little ability to pay an additional couple thousand dollars a

¹ The experience in California and elsewhere has been that program administration and loan origination is handled by a third-party, non-governmental program administrators, such as Renovate America, Ygrene Works, and Renew Financial.

² The limited underwriting criteria currently for PACE include: the property owner may not be delinquent on property taxes; the property cannot have had more than one 30-day mortgage late payment over the previous twelve months; existing loan-to-value ratios must be below certain thresholds; proposed improvements must not exceed 15% of the market value of the property and the combined mortgage related debt and amount of the PACE assessment must not exceed 100% of the market value of the property; and the total annual property tax and assessments, including the contractual assessment, on the property must not exceed a certain percentage of the property's market value.

year in property taxes. [Story 1, 3, 6, 7, 8, 20]. Low-income homeowners also are not screened for referral to state or local programs that provide free or lower cost options, such as the federal Weatherization Assistance Program.

Enabling Contractor Fraud

PACE programs are designed to use home improvement contractors as the salespeople for the loan product. Marketing for eligible upgrades is typically done by contractors through door-to-door salespersons, up-selling from other repairs, advertisements and telemarketers.³ [1, 4, 5, 7, 9, 12, 19, 26]. Like snake oil, in the cases we have heard about, the products being pitched and the workmanship of the installation are of questionable quality and benefit. [4, 6, 7, 8, 9, 10, 12, 14, 21, 27, 28, 29]. Contractors who often know the maximum PACE loan available to any given homeowner frequently upsell and push homeowners into purchasing unnecessary and unwanted home improvements. [4, 24]. Yet, PACE programs provide little recourse for homeowners who have been duped by home improvement contractors.

Homeowners have been induced to purchase home improvements using PACE financing based on dubious claims and representations. For example, a common pitch to homeowners is that PACE is a government program under which energy efficient improvements can be made with little or no costs. [1, 3, 9, 21, 22, 23]. Homeowners often do not recognize this misrepresentation immediately because of the lag time that it takes for PACE financing to appear on their tax bills or in escrowed mortgage payments. Further, some homeowners may not understand that an increased tax bill is the direct result of PACE financing for home improvements that may have been done a year or year and a half earlier. In other instances, homeowners have been promised a large tax refund as a result of their energy efficient improvements. [2, 6, 9]. That half-truth has convinced some homeowners to enter into PACE transactions only to find that they were not eligible for the nonrefundable tax credit available for certain energy efficient upgrades.⁴ Low-income homeowners, in particular, who have limited or no tax liability, will not realize any significant benefit from the tax credit. That fact, however, has not stopped salespeople from using the promise of a tax refund that will purportedly pay for the work to induce homeowners to install energy efficient products.

Elder Financial Abuse

Many of the worst abuses described, from upselling and shoddy work to making unaffordable loans, have been targeted at elders living on fixed incomes and suffering from health problems. [2, 3, 4, 7, 10, 13, 14, 15, 19, 25]. A homeowner in her eighties with significant health problems and dementia, living on a fixed income, was sold a \$45,000 loan for overpriced and unnecessary home improvements following a four hour sales pitch. [7] Another elder was stripped of her home equity that could have been used to pay for her transition to an assisted living facility after the sale of her home. [17]. Many of the loans were executed with an electronic signature by elders who are not computer literate or do not have access to electronic mail.

³ Many PACE program administrators also offer co-marketing opportunities to contractors, permitting contractors to use the program's logos, advertising copy and other branding. R-PACE: Residential Property Assessed Clean Energy, A Primer for State and Local Energy Officials, p. 38 (March 2017).

⁴ See 26 U.S.C. §§ 25C, 25D (describing certain nonrefundable personal tax credits). A taxpayer claiming a nonrefundable credit can only use it to decrease or eliminate a tax liability. A taxpayer will not receive a tax refund for any amount that exceeds a taxpayer's liability for the tax year.

Insufficient and at Times Minimal Energy Savings

Then there is the myth of net bill neutrality. A common selling point promoted by PACE providers is that energy efficient upgrades will reduce the homeowners' utility bill in an amount sufficient to offset the cost of the improvements. [2, 19, 20, 22, 26, 29]. Homeowners who have little knowledge about the relationship between the proposed improvements and actual energy savings may be sold ineffective products. For example, in one case the windows installed with PACE financing turned out not to be Energy Star approved. [28]. PACE loans have often been used for work like expensive "cool coat" paint and other work that is unlikely to produce significant energy savings. [6, 7, 9] Even in cases where some utility savings might be realized, it is unlikely to offset the costs of the improvements.

Problems Refinancing and Selling

Homeowners are told that they are not responsible for the assessment if they sell the property and that it will carry over to the new homeowner. But purchasers typically are unwilling to assume the assessments and homeowners are forced to pay them off to complete a sale. PACE loans have also produced well documented problems with refinancing. Finally, we have repeatedly seen the uncertain claim that the homeowner's property value will increase without the related disclosure that the homeowner may have difficulty selling or refinancing the home without completely paying off the PACE assessment. [2, 11, 17, 25].

Technology Meets the Hard Sell

The narratives that we received consistently describe high-pressure sales tactics used to lock homeowners into vastly overpriced improvements and high cost financing. Many senior homeowners and homeowners with limited English proficiency were pushed to enter into home improvement contracts and/or loan agreements on the spot through mobile tablets and e-signatures. [1, 7, 9, 10, 13, 15]. Use of electronic signatures, especially for those with no or low computer literacy, denies the homeowner a real opportunity to review and possibly reconsider the agreement. In some cases, it was unclear whether the homeowner ever received copies of agreements they purportedly signed, and in other cases, it was unclear whether the electronic signature was, in fact, the homeowner's or whether it was forged by the salesperson.

High Cost

Homeowners have also been caught by surprise by the high cost of the home improvements and high cost of the PACE financing. [7, 8, 9, 12, 15, 16, 17, 18, 19, 21, 30]. For example, one homeowner was charged \$23,150 for exterior home painting, a job that should have been less than 25% of that figure. [7].

PACE loans typically carry interest rates that are high for a home-secured loan with little risk of default. Because PACE loans are considered property tax liens that take priority over any mortgages (and the servicer may be obligated to advance a delinquent tax assessment), the risk of default is much lower than traditional home financing. Yet, the cost of PACE financing is nearly double other home equity loan products. The PACE loans we have heard about range from \$10,800 to \$56,700 (an average of just over \$33,000) mostly with 20-year terms and annual percentage rates of 8 to 11%. [7, 12, 16, 17, 18, 19, 21, 29]. Some even have prepayment penalties, a feature that many consider predatory and that federal law now largely

bans for traditional home financing. [16, 17, 18]. Costs to PACE borrowers are not limited to the loan contract terms, as most state property tax laws impose significant penalties and additional interest on homeowners if tax assessments are not timely paid.⁵

Two-Contract Dodge

Contractors have taken advantage of a loophole in the PACE loan process by making multiple loans to the same homeowner. Because of the lag time before PACE liens are recorded and registered with the local tax collector, contractors have evaded maximum loan-to-value restrictions and other requirements by placing loans with different PACE providers, knowing that PACE providers may not discover that other PACE loans are being made at approximately the same time. Several homeowners have been saddled with more than one PACE loan, often not even knowing that they were entering into separate loans. [3, 4, 17].

Wall Street Lurking in the Background

Fueling the demand for more PACE loans is Wall Street's appetite for bonds backed by them. As of the third quarter 2016, more than \$3.3 billion in PACE bonds had been issued.⁶ PACE industry executives forecast that the current PACE financing will double by 2018, making it the fastest-growing form of financing in the nation.⁷ In turn, many of the PACE bonds are packaged and securitized with the new securities being snapped up by Wall Street investors. Super-priority lien position and high interest rates combine to create an attractive investment. These dynamics are creating a push to originate loans without underwriting in the same way that Wall Street fueled the improvident lending that led to the financial crisis. Wall Street may not be at significant risk from PACE loans due to the senior position of loans that are small relative to the value of the property. But the impact on homeowners may well prove to be similar to the impact of the subprime loans of the mid-2000s.

Homeowner Stories from the Field

1. \$64,000 Solar Panels for Habitat Home

Terms: \$24,000, 9%, 25 years

PACE provider: n/a

Work: Solar Panels

Date of Work: n/a

Contact: David Battany, Habitat for Humanity Board Member

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⁵ For example, if a property tax or assessment in California is not paid by 5:00 pm on December 10 and April 10 of each year, a 10% penalty is applied by the local taxing authority. In addition, on July 1 of each year, the local taxing authority will impose an interest charge of 1.5% per month (18% per year) until the property assessment is paid. These amounts must be paid in addition to the loan interest.

⁶ R-PACE: Residential Property Assessed Clean Energy, A Primer for State and Local Energy Officials, p. 54-55 (March 2017).

⁷ *Wall Street Journal*, Kirsten Grind, "America's Fastest-Growing Loan Category Has Eerie Echoes of Subprime Crisis," Jan. 10, 2017, available at: <http://www.wsj.com/articles/americas-fastest-growing-loan-category-has-erie-echoes-of-subprime-crisis-1484060984>.

This single, low-income African-American woman owned a Habitat for Humanity home. She was one year from paying off her Habitat mortgage. Habitat services the loan and escrows tax payments. Habitat saw a huge spike in the tax assessment that the homeowner, who had an unstable work history, had no ability to pay. Upon investigation, Habitat determined that the homeowner had been solicited door-to-door for solar panels and was led to believe that the energy improvements would be done at no cost to her. She had no paperwork, but apparently signed on an electronic tablet. The terms of the PACE loan included an initial principal balance of \$24,000, an interest rate of 9%, and a term of 25 years, for a total cost of over \$64,000. The solar panel contractor apparently sent the agreement to the wrong email address, and the homeowner never received them. With the additional tax assessment the Habitat loan was no longer affordable. To prevent foreclosure, Habitat refinanced the PACE loan into a Habitat 0% loan over ten years.

2. Phantom Tax Credit and Illusory Energy Savings for Elderly Homeowner with Limited English Proficiency

Terms: Annual payment approximately \$3,900, estimated principal \$38,000

PACE provider: Renovate America (HERO)

Work: Solar Panels

Date of Work: n/a

Contact: Alysso Snow, Legal Aid of San Diego

alyssons@lassd.org; 619-471-2655

A door-to-door salesman from Fidelity Home Energy solicited an elderly homeowner, whose primary language was Spanish and who had limited English proficiency. The homeowner was induced to purchase solar panels based on representations that she would receive a \$10,000 check from the IRS, her home value would increase, and her energy bills would be lowered. In order to lower her energy bills, which were around \$125 per month, the homeowner entered into an agreement for the installation of solar panels. To finance the solar panel purchase, the company offered her a PACE loan through the HERO program. None of the documents provided to the homeowner were in Spanish and loan disclosures were hidden deep in the contract. The HERO agreement included a Civil Code section 1542 release, thereby releasing the holder of all liability now and in the future. Each of the representations upon which the homeowner relied turned out to be false. The solar company representative told her that she would receive a \$10,000 check from the IRS; the homeowner was not eligible for this refundable tax credit because her income of only social security was too low to credit tax liability that could be offset by the credit. Second, she was told the value of her home would increase, but the priority lien has made it more difficult for potential buyers to obtain a loan to purchase the house. Third, her monthly energy bill of \$125 was replaced by a monthly tax bill of \$450. Unable to pay the additional property tax, she has defaulted and is now facing foreclosure.

3. Reverse Mortgage and Four Unaffordable PACE Assessments

Terms: Four liens totaling more than \$17,000 in annual assessment. Total liens of approximately \$144,000.

PACE provider: Two Ygrene, one Renovate America, one unknown

Work: Solar Panels, "green" improvements to home; kitchen renovations

Date of Work: 2014, 2015, and two in 2016

Contact: Alysso Snow, Legal Aid of San Diego

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An elderly gentleman (71 years old) with a reverse mortgage was repeatedly solicited in his home for home improvement repairs. Each time, he was offered PACE financing to cover a

variety of home improvements, including solar panels, kitchen renovations, and "green" improvements on his home. For the 2014 and 2015 property assessments, his property taxes in 2016 increased from around \$310 annually to over \$5,476. In 2016, the reverse mortgage lender paid the tax assessment when the homeowner could not, the reverse mortgage lender initiated foreclosure proceedings and filed a notice of default was recorded. The homeowner exhausted all of his savings to come current. In 2017, his annual assessment is now over \$17,000 due to the two new liens in 2016. His annual income is around \$10,000 a year. On his fixed income, he will not be able to pay the additional the property tax and again faces foreclosure. The loans were made with knowledge of his inability to pay. Further, the transactions were wrought with fraud. For example, the written advertisement for the solar panels states, "The Government will pay 30% of your Solar." The written advertisement expressly reads, "Investing in Solar WILL NOT RAISE your property taxes." Both statements are false. Client had no understanding of how the PACE program worked he assumed it was a Government program that would pay for the improvements.

4. False Representations to 95-year Old Veteran and His Legal Blind and Deaf Wife

Terms: Lien around \$10,800

Homeowners entered into a second finance agreement for more than \$50,000 with a PACE provider, however, the work is incomplete and the lien has not been recorded to date. The contractor has sued the couple for more than \$50,000.

PACE provider: Renovate America (HERO)

Work: Roof repairs, windows, doors, patio, HVAC

Date of Work: July and August 2016

Contact: Alysson Snow, Legal Aid of San Diego

alyssons@lassd.org; 619-471-2655

A married couple, the husband is a former 95-year-old Tuskegee airman and the wife is 87 years old and is legally blind and deaf, jointly own their home. A contractor came to their home, initially simply to repair the back porch door. While there, contractor began to upsell clients. Contractor upsold clients to new windows, tear down and replacement of back patio enclosure, repair wood on roof, install a new, energy efficient brown roof, and arrange the installation of air conditioning and solar panels, all for a total price of \$42,800.00. Couple initially refused as they could not afford that amount. Contractor represented that a financing program, called HERO, was a special government program to help fund home improvement projects. Contractor explained that he could arrange 20-year financing at about six percent interest through HERO, which he represented verifies contractors, approves products, ensures fair market value pricing, and inspects work to ensure everything is exceptionally high quality.

The contractor made material false representations to induce the couple to agree to the additional, costly home improvements. This included lies about employing a veteran to work on the home, about what was included in the \$42,800 price tag, lies regarding the need for permits, and about the license status of the contractors and subcontractors.

The couple signed a document with handwritten terms that contractor stated covered the terms he had verbally presented to them. Contractor then took back the document and continued to move around clients' home while writing down additional notes that contractor claimed were measurements. Contractor demanded \$100 "to seal the deal." The \$100.00 down payment was disclosed on the face of the document, but later did not appear as a credit in any of the subsequent funding. Contractor subsequently isolated wife to have her sign additional work orders.

The work performed was poorly done. The couple complained to Renovate America. Renovate's inspector documented litany of issues. The couple also hired their own inspector who also documented all of the problems. Renovate did not provide a plan for what was going to be done to fix the home. Renovate sent its agent with the contractor to the couples' home. Renovate's agent and contractor frightened wife and she told them to leave and talk to her "lawyer." They did not leave. They stood in front of couple's home and called her and daughters. Renovate's agent left voicemail messages that this was the "final resort." The couple, scared and intimidated, then reported the issues to the Contractors State License Board and complained to the District Attorney's office for financial elder abuse.

Contractor filed lawsuit against the couple (while they knew veteran husband was in hospital for pneumonia) for more than \$50,000.

5. Bait-and-Switch for Spanish Speaking Family

Terms: Lien \$41,801.31; annual assessment \$2,249.95
PACE provider: Ygrene
Work: Solar panels
Date of Work: August 2016
Contact: Alysson Snow, Legal Aid of San Diego
alyssons@lassd.org; 619-471-2655

Home solicitor for contractor communicated with family in Spanish only. During the course of the presentation the family stated that they did not want a property tax assessment program to finance the solar panels. The contractor's agent stated they would arrange financing and repeatedly reassured them that the financing would not be a property assessment. The family had already rejected sales pitches from other contractors where financing through HERO.

The family agreed to enter into the agreement, but no translation was provided in Spanish. The family was not given a copy to review before signing and did not receive a copy after signing. The first time the family demanded a copy of the contract, the contractor provided advertisements and not the contract. The family eventually was able to get a copy of the contract, but did not know until then that this was a property assessment and financed by Ygrene.

The contractor's agent falsely represented the nature and terms of the financing. The home solicitation contract was defective. The notice of cancellation was non-compliant. The family cancelled the agreement pursuant to the home solicitation contract, but Ygrene and the contractor have not removed the lien and continue to seek property tax assessments.

6. No Income, No problem

Terms: Lien around \$56,700
PACE provider: n/a
Work: Solar; roof, including flashings, ridges, down spout, rain gutter, rain barrels (two); stucco, spray wash, cool wall paint; window trim; take out two air conditioners; replaster hole
Date of Work: October 2016
Contact: Alysson Snow, Legal Aid of San Diego
alyssons@lassd.org; 619-471-2655

Homeowner was approached by two sales people from a contractor, Grenify, regarding home improvements. They told her the program was government funded and that she did not have to worry about any payments until November 2018, and told her it would be \$200 to \$300 a month

starting in November 2018. This was false. Homeowner told them that she was unemployed and would be unable to pay for the loan. They told her not to worry as she would get a “huge” tax credit to help her pay for the solar panels. However, she does not qualify for a tax credit because she had no tax liabilities. Her home was completely paid off. Now when the new assessments come due she will not be able to pay the high assessment and may lose her home. The work agreed upon has not been complete. City of El Cajon called her and told her Grenify was approved to put solar panels in, she didn't even know they were going to do solar panels, this was the first she heard of it. Further research needed to determine if financing was through PACE.

7. Dementia and Fixed Income Not a Barrier to a PACE Loan

Terms: \$45,195 loan, \$2,778 fees, 8.35% (9.35% APR), taxes \$5,471.03/year for 20 years

PACE provider: Renovate America

Work: Windows, cool coat stucco, rain gutters, patio covering

Date of Work: July 2015

Contact: Adelaide Anderson, Public Counsel

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According to a complaint filed in Los Angeles Superior Court, Ossie Hill, an 84-year old with dementia and health problems, agreed to pay over \$45,000 for home improvements, despite the fact that her only source of income is Social Security, amounting to less than \$1,000 a month.

After a four-hour sales pitch, the (illegally) unregistered home improvement salesperson—who has a history of felony convictions—convinced this senior citizen to sign four documents, which he represented were estimates but which the contractor later took the position were binding contracts.

Ms. Hill purportedly agreed to PACE financing for 19 vinyl windows at \$805.00 each, stucco and wood exterior work for \$27,650.00, and a patio cover for \$2,250.00. The work was done shoddily, and her energy bills did not decrease, but her tax bill increased exponentially. The annual repayment amount comprises half of Ms. Hill's income. The total repayment amount, including fees and interest, was \$109,000.

The PACE documents were signed electronically, and Ms. Hill did not receive a copy of the finance agreement until a relative intervened several weeks later. Ms. Hill could not afford the payments and filed suit to prevent foreclosure.

8. \$25,000 Exterior House Painting for a Widow on Fixed Income

Terms: \$46,000 loan, PACE lien fell through

PACE provider: n/a

Work: Windows and paint

Date of Work: n/a

Contact: Adelaide Anderson, Public Counsel

aanderson@publiccounsel.org, (213) 385-2977 x 231

Doris Tillman – who was profiled in the Los Angeles Times about living without water after it was shut off because she couldn't afford to pay it – was later pushed into a PACE loan for \$23,150 for exterior paint (that costs \$40/gallon retail), and \$23,000—or \$1,353 per window—for windows similar to those you could buy at Home Depot for approximately \$200. She didn't see the financing details until they asked her to sign the completion certificate, and was shocked

when she saw what she was going to have to pay, so she refused to sign. The PACE loan fell through and she is being sued on a mechanics lien. Public Counsel has filed an answer.

From the 2015 LA Times article: "Last August, the Los Angeles Department of Water and Power shut off the church-going widow's water service because Mrs. Tillman had fallen behind on her payments after a series of setbacks. She lost her job as a delivery driver, her leaky pipes left her with a \$7,000 plumbing bill she's still paying off, and her Social Security check wasn't covering her expenses."

9. A Roof Without a Warranty and Useless "Cool" Wall - \$50,000

Terms: \$50,000, \$6400/year.

PACE provider: n/a

Work: Roof, "cool wall"

Date of Work: n/a

Contact: Leigh E. Ferrin, Public Law Center (Santa Ana)

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Two contractors going door-to-door told the client she had three leaks in her roof. She lived alone, had just undergone surgery, and was not feeling well. They told her a tax refund through a government program would cover most of the cost. They filled out the paperwork, explained only that her taxes would go up \$200/month until she filed her taxes, and electronically signed her name. They said the roof had a 30 year warranty. But after the work was done, the contractor said the warranty didn't apply because her walls were damaged and didn't support the roof, which he showed by kicking a hole in the wall. He filled out a new contract for a "cool wall" for \$32,000 and said the increase would be no more than \$250/month for both the wall and roof, until she got her tax rebate. A month later, the client was notified that a finance company had denied a loan that she had not applied for. She later learned that her taxes increased by over \$500/month and that the permit valuation for the work was \$24,000 but she was charged more than \$50,000. The work was poorly done and caused damage. A contractor friend said her previous walls were better quality.

10. E-Signing for Homeowner with Dementia

Terms: Taxes \$337/month (\$4,044/year); estimated assessment \$40,000

PACE provider: Renovate America

Work: Solar power system

Date of Work: n/a

Contact: Carolyn Reilly, Elder Law & Advocacy (San Diego)

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The homeowners purchased a solar power system that was financed through the HERO program. Their understanding was that it was supposed to cost \$170 a month. However, the subsequent mandatory payments were \$337 a month. The contractor set up the financing on a computer and electronically signed for the husband, who has dementia. According to the homeowners, the contractor should have been able to recognize her husband's condition and that he could not understand the e-contract.

11. PACE Loan Prevents Veteran Refinancing

Terms: n/a

PACE provider: Renovate America

Work: Energy upgrades (unspecified)

Date of Work: n/a
Contact: Carolyn Reilly, Elder Law & Advocacy (San Diego)
creilly@seniorlaw-sd.org, 858-565-1392 x 204

Elderly homeowner was convinced by HERO representatives to sign up for the HERO program for energy upgrades. However, he claims that he was never advised that he would not be able to refinance his home if he took part in the HERO program. Homeowner discovered that he would not be able to refinance his home when he attempted to get a loan through VA.

12. Bait (1.5% Financing) and Switch (26.99% Financing)

Terms: n/a
PACE provider: n/a
Work: Energy-efficient noise-reducing windows
Date of Work: n/a
Contact: Carolyn Reilly, Elder Law & Advocacy (San Diego)
creilly@seniorlaw-sd.org, 858-565-1392 x 204

Elderly homeowner received a phone call that explained he qualified for the HERO program. He was offered a deal for new energy-efficient windows that also reduced noise. There was to be 1.5% financing and no prepayment penalty. However, the windows installed were extremely low quality, provided poor insulation, and amplified noise. Homeowner discovered that the interest rate is 26.99% and a lien has been placed on his home. Although the homeowner was induced into the transaction by the offer of HERO financing, the loan was likely not funded through PACE because of the excessively high interest rate.

13. Glossing over the Details

Terms: n/a
PACE provider: Renovate America (HERO)
Work: Replacement windows
Date of Work: n/a
Contact: Carolyn Reilly, Elder Law & Advocacy (San Diego)
creilly@seniorlaw-sd.org; 858-565-1392 x 204

Elderly homeowner wanted to get his windows replaced and expressed interest in the HERO program. A HERO representative signed him up and indicated there would be a fairly low monthly fee, but did not convey that there was to be a tax lien on the house. The details of the agreement were glossed over by the HERO representative, with hidden costs and higher monthly payments embedded within the contract. The representative also requested an electronic signature from the homeowner, but did not inform them that the e-signature was going to bind him to a contract.

14. PACE Loan for a Sagging Roof

Terms: n/a
PACE provider: n/a
Work: Remodeling and fixing of roof
Date of Work: n/a
Contact: Carolyn Reilly, Elder Law & Advocacy (San Diego)
creilly@seniorlaw-sd.org, 858-565-1392 x 204

Elderly homeowners contracted to get extensive remodeling done with HERO financing. They hired a local remodeling company to do various projects, including fixing the roof. The company promised to completely tear down and rebuild the roof. However, when they finished, the homeowners found they did not actually replace the existing wood. The new roof sagged and created a hazard for the homeowners.

15. Vastly Overpriced Rewiring with an Electronic Signature

Terms: \$18,000, 8.25% for 20 years
PACE provider: Ygrene Energy Fund
Work: Rewiring 1100 square foot house
Date of Work: n/a
Contact: Carmen Hill, Harambee Housing Information Program
citihousing20@aol.com, (323) 291-2100

“An electronic signature for paperwork for a senior who is not computer literate is criminal--no time to read the documents. He didn't understand that he was putting a lien on his house for 20 years or that he was being charged 8.25% interest rate.... This homeowner came to me because he was considering selling his home.... I have talked to several electricians and was told that \$18,000 to install 200 amp service and correct wiring on a small, basic 1,100 square foot house was scandalous! The contractor was going to charge \$25,000 for a new roof. I talked to... Ygrene Energy Fund to no avail.”

16. Prepayment Penalty and Inability to Refinance

Lien: \$34,290; 8.250% over 20-year term
PACE provider: Ygrene Energy
Work: Roof replacement; New windows
Date of work: 2015
Source: Smith et al v. Ygrene Energy Fund, Inc. et al, No. 3:17-cv-01258 (N.D. Cal.)

Alejandro and Felicia Marcey allege in the court complaint that: “Plaintiffs entered into a financing agreement through Ygrene to replace the roof and windows on their home at a cost of \$34,289.97. However, pursuant to the terms of Plaintiffs’ loan agreement, which includes a 20-year term and interest rate of 8.250%, Plaintiffs will actually pay a total of \$71,154.83 for a new roof and windows.” When homeowners attempted to refinance their home they were told that they could not do so until they fulfilled the loan and paid a prepayment penalty, which they could not afford to do.

17. Equity Stripped from Senior Needed to Pay For Assisted Living

Liens: \$22,000 and \$49,000, APR over 9%
PACE providers: Renovate America and other PACE provider
Work: Solar panels, etc.
Date of work: Oct., 2016
Source: Senior’s daughter

NCLC was contacted by the daughter of an elderly woman who has now moved to assisted living. She has been diagnosed with cognitive impairment and dementia. In taking over her mother’s financial affairs, including the sale of her house, the daughter discovered that she had been taken advantage of financially. During the title search, the realtor uncovered two property tax liens, one under HERO (\$22K) and another PACE lien (\$49K) by a different PACE provider.

The \$22K HERO assessment was apparent in the property tax records and also in her mother's receipts and papers, but nothing could be found on the \$49K PACE financing. Because the PACE payments don't start until following year, the \$49K assessment was not listed in the property tax records and was not discovered until the title/escrow process. The buyer was willing to assume the smaller HERO assessment, but not the larger \$49K PACE assessment. They were forced to pay off the \$49K out of the sale proceeds -- money that was to pay for nearly a year of her mother's care in the assisted living facility.

The daughter has been unable to get any receipts or financing paperwork from the solar panel installer. They never completed the interconnect agreement with the Department of Water and Power, so the solar panels aren't even working. The daughter has also questioned why her mother qualified to borrow the money, as she clearly could not afford the payments on her Social Security income. In addition to the solar panels, the daughter believes there was other work done that was "upsold." The daughter stated: "This is such a bad deal, all the way around. I'm sure my mother didn't understand what she was getting herself into"

18. High APRs, Prepayment Penalties, and Interest Due after Payoff

Loya, et al, v. Western Riverside Council of Gov'ts, No. 5:16-cv-02478 (C.D. Cal.)

- a. George and Judith Loya; Moreno Valley, CA
Lien: \$16,359.95; 8.25% note, 10.8% APR; prepayment penalty
PACE provider: Renovate America
Work: Window replacements
Problem: Overcharging interest, admin fees, prepayment penalty.
Date of work: 2014

Required to pay interest past the date of loan payoff, excessive costs (paid 30% more than project costs for two years in HERO program); failure to timely credit payments; energy savings virtually non-existent.

- b. Beth Simpson; San Diego, CA
Lien: \$33,249.41; 8.35% note, 9.3% APR; prepayment penalty
PACE provider: Renovate America
Work: Solar?
Problem: Overcharging interest, admin fees
Date of work: 2016

Richardson, et al. v. County of Los Angeles, et al., No. 2:16-cv-08943 (C.D. Cal.)

- c. Michael Richardson; Compton, CA
Lien: \$48,777.71; 8.35% note, 10.8% APR;
PACE provider: Renovate America
Work: Roof, windows, stucco
Problem: Overcharging interest, admin fees, failure to credit payments
Date of work: Fall 2015

Ramos, et al v. San Bernadino Assoc. Gov'ts, et al., No. 5:16-cv-02491 (C.D. Cal.)

- d. Richard Ramos; Highland, CA
Lien: \$22,798.12; 9.25% note, 10.59% APR; prepayment penalty

PACE provider: Renovate America
Work: Roof, windows, stucco
Problem: Overcharging interest, admin fees, failure to credit payments
Date of work: 2014

In re Nwibe, 16-42643 (Bank. N.D. Cal.) Objection to Plan Confirmation by WRCOG

- e. Mercy Nwibe; Tracy, CA
Lien 1: \$18,800.67; 8.75% note, 10.63% APR; e-signed
PACE provider: Renovate America
Work: HVAC
Date of work: December 2014
Lien 2: ~\$18,000; 8.95% note; 20 yrs; e-signed
PACE provider: Renovate America
Work: Windows, Doors, Skylights
Date of work: January 2015

Note same application date for both contracts; two different contractors

In re Lucero, 6:17-10205 (Bank. C.D. Cal.) Objection to Plan Confirmation by WRCOG

- f. Ray and Cynthia Lucero; Nuevo, CA
Lien: \$48,7777.71; 8.95% note, 10.55% APR;
PACE provider: Renovate America
Work: Solar
Date of work: 2014

19. The Myth of Net Energy Cost Savings #1

Lien: \$22,638.18 with an APR of 9.42 percent over 20 years.
PACE provider: Renovate America
Work: Solar Panels
Date of work: 2015
Source: Bakersfieldnow.com

Elderly woman contacted multiple times from companies asking if she would be interested in solar panels. After being transferred to a supervisor, she was convinced to proceed with the installation with the impression that it would save her in the long run by reducing the cost of her electricity bills. However, after installing the solar panels, their monthly property tax had gone from \$138 per month to \$333 per month. In addition to that, the homeowner said she ended up paying a "true-up" bill to Pacific Gas and Electric Co. amounting to about \$700 over the course of 2016. After the death of her husband and \$22,000 lien on her home, she could no longer afford to stay in the first home she had ever owned and is now living with her son in Porterville while her home is on the market.

20. The Myth of Net Energy Cost Savings #2

Lien: \$54,000
PACE provider: Renovate America
Work: Solar Panels
Date of work: 2016

Homeowner was laid off in 2015 and was looking to cut energy costs and add value to home. Renovate America's HERO Program offered the homeowner, who was unemployed, a \$54,000 loan. It wasn't until after the solar panels were installed that he became aware that the loan was a tax assessment and generated a lien on the house. The homeowner is now attempting to short-sale his house, the mortgage is underwater, and "the money he saved by installing solar hasn't come close to covering his annual loan payments."

21. The Fake Free Government Program

Lien: \$14,000, 9.51% APR, \$40,000 total over 30 years
PACE provider: Renovate America
Work: Windows
Date of work: 2012
Source: Biggerpockets.com

Homeowner was not told about the tax lien. The contractor, Windor of Anaheim, said the windows were done for free through a government program and taxes would increase only due to the increased value of the home. Contractor was paid and the lien recorded even though there was an incomplete building permit and the work was never completed. The homeowner moved out of state and discovered the lien later when selling the property.

22. False Promises and No Net Energy Cost Savings

Lien: \$37,000, 6.5%, \$5000/year for 20 years
PACE provider: Ygrene Energy Fund
Work: Solar panels
Date of work: n/a
Source: CBS Los Angeles

A salesman told the Masons, who were nearing retirement, that solar panels would cut their utility bills in half and installation would be covered by government rebates, which they did not receive. They weren't told about the property tax assessment. "The Masons say their effort to go green has now derailed their retirement plans if it means they can't sell their home."

23. Free Money

Lien: No PACE loan taken
PACE provider: n/a
Work: Roof.
Date of work: n/a
Source: Comstock's Business Insight

The 'no money down' component of the program encourages contractors to overprice their bids. A contractor who recently approached Erin Strumpf and her husband to discuss a PACE loan for a new roof on their own house described the program as 'free money.' His bid came in at \$20,000, almost double what they ended up paying through a non-PACE contractor.

24. Upselling to Maximum PACE Loan Amount

Lien: \$23,000
PACE provider: n/a
Work: Landscaping front & back yards

Problem: Contractor tried to upsell based on size of PACE loan
Date of work: 2014
Source: Comstock's Business Insight

Benjamin Triffo, Elk Grove, CA, says his PACE contractor tried to upsell him, initially bidding \$60,000 to do the job plus replace his driveway. Triffo told the contractor he didn't need a driveway, and it took several rounds of negotiation to get down to the \$23,000 to which Triffo committed. Triffo says it was 'a little weird' to have the contractor know what size PACE loan he'd qualified for, which he thinks created an incentive for the contractor to bid high.

25. Surprise PACE Lien and Prepayment Penalty

Lien: \$14,774
PACE provider: Renovate America
Work: A/C, tankless water heater, replacement ductwork
Date of work: n/a
Source: Sacramento Bee

When Patti Smith, 62, and living in a senior community, sought a refinance, she had to pay off a \$14,774 HERO loan. "I was flabbergasted when our mortgage company told us we had a lien," said Smith, 62. "The contractor who pushed the HERO program never mentioned the word 'lien.' If he would have we would have never done it." Smith said she also had to pay a penalty of \$1,734.14 to HERO for paying off the loan early.

26. Cost of PACE Lien Far Outstrips Savings

Lien: \$33,000
PACE provider: n/a
Work: Solar panels
Date of work: n/a
Source: Sacramento Bee

Door to door salesmen told Faye Moore, 75, solar panels would save money on her energy bill. The thousands she owes for annual property taxes "far outstrips those savings." "I think I've been had," Moore said.

The following stories are self-reported by consumers and posted on the Yelp website used for reviews of businesses. NCLC does not have the capacity to verify the details of these stories.

27. Botched Job for \$20k

Lien: \$20,000
PACE provider: n/a
Work: Windows and doors
Date of work: 2015
Source: Yelp

Katherine C., explains that she took a loan from the HERO program to have new windows and doors installed by PCHS in Anaheim. "It has been over a year since PCHS has walked away

from a botched job and I have a \$20k bill added to my taxes. Hero has not been much help at all. Sadly.”

28. Little Help from PACE Program for Contractor Scam

Lien: n/a
PACE provider: Renovate America
Work: Windows
Date of work: Problem reported 6/3/2016
Source: Yelp

“Upon inspection of the sticker attached to the windows however it became evident that the product installed was not EnergyStar zoned for California,” says Shannon C. “I notified HERO [Renovate America] and Landmark and sent photos. Landmark vigorously argued over the telephone that the windows were approved despite evidence to the contrary.... Eventually they secured an email from Ply Gem the window manufacturer which claimed the installed windows were retroactively California compliant despite the sticker. I didn't believe this, and contacted the Department of Energy explaining my concern. They confirmed my suspicions that the windows were NOT approved for the EnergyStar program in California....

“Over time it became apparent that HERO, having secured my signature, were washing their hands of any problems relating to this project and responses to emails and phone calls ceased. I was forced, with much expenditure of time, effort and multiple phone calls to pursue replacement of the windows through Ply Gem, Eventually they agreed to send their own crew out to install California Energy Star compliant windows.”

29. Big Mortgage Escrow Increase; Little Energy Savings

Lien: \$35,000, 9%, \$365/month (later \$923)
PACE provider: Renovate America
Work: A/C, windows
Date of work: 2014
Source: Yelp

Jeff H. said: “Biggest scam next to insurance companies! Sales agents are very misinformativeOverpriced cheap run of the mill products! ... It took 2 years to be put on and caused my escrow account to become negative, which in turn caused my mortgage payment to increase by \$923 a month not the \$356 that was calculated! There was also no mention that 9% interest rate! The new HVAC system has not made a difference in my bills nor have the energy saving windows! Secondly my big tax kickbacks totaled a whopping 500\$ deduction when we filed our taxes! A few things were not completed on the project I've been trying for 2 years to have completed”

For more information, contact National Consumer Law Center Attorney John Rao at jrao@nclc.org or (617) 542-8010.



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