



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: December 7, 2017

Mortgagee Letter 2017-18

To: All FHA-approved Mortgagees
All Direct Endorsement Underwriters
All FHA Roster Appraisers
All FHA Roster Inspectors
All FHA-approved 203(k) Consultants
All HUD-approved Housing Counselors
All HUD-approved Nonprofit Organizations
All Governmental Entity Participants
All Real Estate Brokers
All Closing Agents

Subject Property Assessed Clean Energy (PACE)

Purpose This Mortgagee Letter (ML) transmits revised policies for insuring mortgages secured by Single Family 1- 4 unit properties encumbered with Property Assessed Clean Energy (PACE) obligations.

Effective Date This guidance is effective for case numbers issued thirty days after the date of this ML.

All policy updates will be incorporated into a forthcoming update of the HUD Single Family Housing Policy Handbook 4000.1 (Handbook 4000.1).

Public Feedback HUD welcomes feedback from interested parties for a period of 30 calendar days from the date of issuance. To provide feedback on this policy document, please send any feedback to the FHA Resource Center at answers@hud.gov. HUD will consider the feedback in determining the need for future updates.

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Affected Programs

This guidance applies to the origination of all FHA Title II forward mortgage programs, and the Home Equity Conversion Mortgage program (HECM).

Background

In ML 2016-11, FHA established requirements regarding the eligibility for FHA-insured mortgages of properties encumbered with PACE obligations that permitted, under some circumstances, a continuing obligation for repayment of the PACE obligation even after foreclosure and acquisition by FHA. These requirements were subsequently incorporated into the HUD Single Family Housing Policy Handbook 4000.1 (Handbook 4000.1).

FHA is concerned about the potential for increased losses to the Mutual Mortgage Insurance Fund due to the priority lien status given to such assessments in the case of default. FHA is also concerned with the lack of consumer protections associated with the origination of the PACE assessment, which are far less comprehensive than that of traditional mortgage financing products. FHA's involvement with accepting properties with PACE assessments may indirectly help to overshadow potential consumer abuses.

While the existence of FHA-insured financing for properties with PACE assessments creates additional choices for financing options, potential borrowers may face risk associated with the potential for property overvaluation due to the unknown or miscalculated effect of the PACE lien on the property value.

FHA is also aware of the need to provide guidance regarding the extinguishment of PACE obligations in association with forward mortgage refinances and HECMs.

Accordingly, FHA has revised its policies with respect to the insurance of mortgages on properties encumbered with PACE obligations.

The policies and procedures for the servicing of FHA-insured mortgages on properties encumbered with a PACE obligation as announced in ML 2016-06 are not impacted by this ML and remain in effect.

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Summary of Changes

Attached to this ML are additions and revisions to the Handbook 4000.1. The following is a summary of policy changes, which is provided for informational purposes only.

Outstanding PACE Obligations

Properties encumbered with PACE obligations will no longer be eligible for FHA-insured forward mortgages.

Refinances

Clarification is provided to identify PACE obligations as existing debt that may be paid off using a Rate and Term Refinance.

Current policies allowing the use of a Cash-Out refinance to pay off PACE obligations remain unchanged.

HECMs

The existing prohibition of properties encumbered with PACE obligations remains unchanged for HECMs.

Clarification is provided to identify PACE obligations as Mandatory Obligations that must be paid off at closing, and may be paid off using HECM proceeds.

Single Family Policy Handbook 4000.1

The attached updates to HUD's Single Family Housing Policy Handbook 4000.1 will be incorporated in a future publication of the Handbook.

HECM Program

Properties which will remain encumbered with a PACE obligation are not eligible for an FHA-insured HECM.

The payoff of a PACE obligation is a Mandatory Obligation and it must be paid off at closing, and may be paid off using HECM proceeds.

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Questions

For additional information on this ML, please visit www.hud.gov/answers or call FHA's Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number via TTY by calling the Federal Relay Service at 1-800-877-8339.

Signature

Dana T. Wade
General Deputy Assistant Secretary for Housing

Attachment