

**REVISED
FINAL STATEMENT OF REASONS**

**California Alternative Energy and Advanced Transportation Financing Authority
("CAEATFA" or the "Authority")**

PACE Loss Reserve Program ("Program")

UPDATE OF INITIAL STATEMENT OF REASONS

After the 45-day comment period, modifications were made to the regulations to accommodate Assembly Bill ("AB") 2597 (Ting, Chapter 614, Statutes of 2014) which makes some amendments to the PACE Loss Reserve Program's (the "Program") statute. AB 2597 clarifies that PACE financing programs are voluntary contractual assessments or voluntary special tax programs, not loan programs, by replacing all statutory references to "loan" with "assessment" or "financing," as applicable. AB 2597 also amends the underwriting criteria by which CAEATFA must evaluate PACE programs when applying for coverage under the Program. Specifically, AB 2597 increases the amount of financing eligible for coverage under the Program from less than 10% of the underlying property's value to less than 15% of the property value for the first \$700,000 in property value, and less than 10% of the remaining value of the property over \$700,000. AB 2597 also now requires that the total mortgage-related debt and the PACE financing amount not exceed the value of the underlying property in order for the financing to be eligible for coverage under the Program.

Notice was provided for a subsequent 15-day comment period regarding the modifications to the regulations from October 15, 2014 through October 30, 2014. The changes are described below:

Section 10080(c). Definitions. This subsection was amended to replace the term "Loan" with "Financing" and to remove "loan" from the definition in order to be consistent with the statutory language under AB 2597.

Section 10081. Application by PACE Program to the PACE Loss Reserve. This section was amended to replace the term "Loan" with "Financing," and "loan" was removed from the word "loan insurance," in accordance with the statutory language under AB 2597. This section was also amended to increase the amount of financing eligible for coverage under the Program to be consistent with the statutory underwriting criteria as amended by AB 2597. A new subsection (b)(10) was also added to establish that the total mortgage-related debt and PACE Financing on the underlying property cannot exceed the value of the property, as required under AB 2597.

Section 10082. Coverage of PACE Financing Portfolios. The heading was changed to replace the term "Loan" with "Financing," and the term "Loans" was replaced with "Financings" in order to be consistent with the statutory language under AB 2597.

Section 10083. Claims Against the Loss Reserve Pool. This section was amended to replace the term “Loans” with “Financings” in order to be consistent with the statutory language under AB 2597.

Section 10084. Claims Procedure. This section was amended to replace the term “Loan” with “Financing” in order to be consistent with the statutory language under AB 2597.

Section 10085. PACE Program Reporting and Administrative Fee. This section was amended to replace the term “Loan(s)” with the term “Financing(s)” in order to be consistent with the statutory language under AB 2597.

Section 10086. Termination and Withdrawal from the Program. This section was amended to replace the term “Loans” with the term “Financings” in order to be consistent with the statutory language under AB 2597.

CAEATFA subsequently adopted the above described modifications pursuant to California Code of Regulations, Title 1, Section 100. The modifications were made effective on January 1, 2015.

On January 12, 2015, CAEATFA issued a Notice of Emergency Regulations proposing to suspend the Program’s administrative fee and change the month in which the Authority shall review the administrative fee. While completing the regular rulemaking process, CAEATFA staff learned that the Program will receive ongoing funding designated for the Program’s administrative costs in CAEATFA’s base budget; therefore, an administrative fee is not necessary to cover the Program’s administrative costs at this time. The proposed emergency regulations were adopted and became effective on January 30, 2015.

To adopt the regulations amending the Program’s administrative fee requirements pursuant to the regular rulemaking process and incorporate the proposed modifications in the current rulemaking file, notice was provided for an additional 15-day public comment period on the proposed modified regulations from January 12, 2015 through January 27, 2015. The changes are described below:

Section 10085. PACE Program Reporting and Administrative Fee. Although the Program will receive administrative funding from CAEATFA’s base budget presently, because the availability of the funding is subject to change, subsection (b) was amended to suspend the administrative fee requirement by reducing the administrative fee to zero basis points. The proposed regulations maintain the requirement that the Authority review the fee on an annual basis to ensure the administrative fee can be adjusted if funding availability does change.

Subsection (b) was also amended to change the month in which the Authority reviews the fee from March to May to provide sufficient time to collect the March semi-annual reports and analyze the information received for consideration when reviewing the administrative fee, and to ensure there is sufficient time to incorporate any administrative fee adjustments, if applicable, in the Program’s regulations before the subsequent reporting period begins July 1st.

The proposed amendments also remove the reference to financings outstanding at the time of enrollment for purposes of clarity because under the proposed regulation, both those financings

outstanding at the time of enrollment and those financings enrolled through the semi-annual reports will not be assessed an administrative fee.

By suspending the administrative fee, the proposed modified regulations should provide more cost savings to local PACE programs and property owners wishing to take advantage of PACE financing and help achieve the Program's goal of increasing the availability of residential PACE financing throughout the state.

No additional changes to the Initial Statement of Reasons are necessary.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATION

The Authority has determined that no alternatives would be more effective in carrying out the purpose for which the regulations are proposed, or would be as effective and less burdensome to affected parties than the proposed regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF AUGUST 29, 2014 THROUGH OCTOBER 14, 2014.

The originally proposed text was made available for public comment for at least 45 days from August 29, 2014 through October 14, 2014. During this comment period, the Authority did not receive any comments on the originally proposed text.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE OCTOBER 15, 2014 THROUGH OCTOBER 30, 2014 PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC.

The modified text incorporating the statutory amendments made by AB 2597 was made available to the public from October 15, 2014 through October 30, 2014. During this comment period, the Authority received one written comment on the modified text.

COMMENT NO. 1: James T. Stout, Director of Finance, Figtree Financing submitted a written comment during the 15-day public comment period suggesting that Section 10081(b)(9) is ambiguous and recommending that the language be amended to read, "The Financing is not to exceed the amount calculated as 15% of the property value up to \$700,000 plus 10% of the remaining property value over \$700,000." The comment also recommended that Section 10081(b)(8) be amended to include financings for 4-unit properties.

RESPONSE: The Authority rejects the proposed language submitted by the commenter as it requires the financing amount to not exceed the calculation set out in statute, whereas the statute requires that the financing amount be for less than the calculation. The modifications to the text of Section 10081(b)(9) were made to comply with statute as amended by AB 2597, and the language was taken directly from AB 2597 to ensure compliance. The Authority believes the language is sufficiently clear and therefore declines to amend the statutory language. Although not within the scope of the modified text, the Authority rejects the recommendation to include financings for 4-unit properties under Section 10081(b)(8) because the Authority is statutorily limited to covering financings for residential properties of three units or fewer under the Program.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE PERIOD THE REVISED INITIAL STATEMENT OF REASONS WAS AVAILABLE TO THE PUBLIC.

The Revised Initial Statement of Reasons was made available to the public for at least 15 days from December 12, 2014 through December 27, 2014. During this comment period, the Authority did not receive any comments on the Revised Initial Statement of Reasons.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE JANUARY 12, 2015 THROUGH JANUARY 27, 2015 PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC.

The modified text amending the Program's administrative fee requirements was made available to the public from January 12, 2015 through January 27, 2015. During this comment period, the Authority did not receive any comments on the modified text.