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Ohio's New Residential PACE Programs Need Strong Consumer Protections to Prevent Homeowner Abuses

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Property Assessed Clean Energy (PACE) Loans Offer Home Improvements Financed Through a Tax Assessment

Residential PACE programs authorize loans typically offered by contractors going door-to-door for home improvements that claim to improve energy efficiency. Unlike standard mortgage loans, PACE loans are property tax liens collected through a tax assessment. The loans do not comply with mortgage protections; and they take priority over any existing mortgage. For-profit loan administrators, like Renovate America, determine if a borrower is eligible for a PACE loan, work with contractors, and facilitate loan securitization.

Existing PACE Programs in Other States Have Led to Widespread Fraud and Abuse

In the few states that today have operating residential PACE programs, including California and Florida, advocates have seen consistent issues with contractor deception and borrowers not having a true ability to repay PACE loans, which are often high cost. NCLC's September 2017 issue brief provides numerous examples of PACE loan abuses in California's program. PACE loans are designed to be made quickly, often on the homeowner's doorstep with little to no documentation. Because they are secured through property taxes and take priority over the existing mortgage, there is little risk to the parties involved in making the loans. Fine print in contract documents also makes it difficult to challenge PACE tax liens if the homeowner is lied to or mislead. Yet, the borrower who cannot afford the PACE loan may lose the home to foreclosure as a result of increased tax or escrow payments. Advocates have seen this particularly impact older consumers who are on a fixed income and who have particular challenges understanding or reading the fine print on a mobile tablet are especially at risk.

PACE programs use home improvement contractors as the salespeople for the loan product. Homeowners may be induced to purchase home improvements in existing PACE financing programs based on dubious representations regarding costs, energy savings, the contractor's work, and the status of the tax lien. Some contractors have falsely claimed that PACE is a free government program or that the homeowner will recoup the cost through a tax rebate that she is not eligible to receive. Homeowners often do not recognize these misrepresentations immediately because it takes time for PACE financing to appear on their bills. Since documents are signed electronically, typically on the contractor's mobile tablet, consumers have faced problems receiving disclosures and understanding the transaction. Limited consumer protections make recourse for abuses difficult to attain.

A common selling point promoted by PACE providers is that energy efficient upgrades will reduce the homeowners' utility bill and the repairs will pay for themselves. However, no energy review or audit of the consumer's home or energy consumption is conducted. Homeowners who have little knowledge on how the improvements will actually lead to energy savings may be sold ineffective products and face substantial bills they cannot afford.

PACE is Coming to Ohio

The Toledo-Lucas County Port Authority (TLCPA) and Renovate America, a for-profit company, are promoting PACE throughout Ohio. The TLCPA and three other port authorities have created a cooperative agreement to establish a statewide program and have circulated a document that appears to summarize consumer protections that would be applicable to all Ohio PACE loans.

Ohio Residential PACE Programs Need Much Stronger Consumer Protections

The consumer protection document concerning planned PACE loans in Ohio leaves many significant gaps:

- **No clear enforcement and no consumer remedies**. The document does not provide any enforcement mechanisms for individual borrowers. In addition, the document provides no detail on how compliance will be monitored or how homeowners would have recourse to address violations.
- **Underdeveloped ability to pay standard**. The document provides an ability to pay standard but gives no detail on the calculation. The proposed standard leaves room for the lender to base its assessment on minimal to no documentation without key details. While it refers to a loan debt-to-income ratio, it does not explain what debt counts in that ratio.
- **Vague contractor requirements.** Despite the significant problems with contractors in other states, the Ohio PACE consumer protection summary simply states that the program shall develop procedures to monitor contractors. California, on the other hand, has proposed detailed regulations on this critical issue. The Ohio proposal also gives consumers no clear means for challenging a tax assessment imposed due to contractor fraud.
- **Insufficient right to cancel and disclosures**. PACE loans are complicated and borrowers must be given clear details, advanced notice prior to signing the assessment contract, and a defined period of time to cancel the loan if there are ongoing questions.
- **No standard for effective energy efficiency improvements.** PACE loans are often premised on the idea that the improvements will lower utility payments and pay for themselves. Audits demonstrating energy efficiency should be a pre-requisite in the making of the loan.

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