PACE REGULATIONS STAKEHOLDER MEETING

1515 K STREET
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SACRAMENTO, CALIFORNIA

FRIDAY, DECEMBER 1, 2017
9:30 A.M.
APPEARANCES

DEPARTMENT OF BUSINESS OVERSIGHT

Jan Owen, Commissioner
Scott Wyckoff, General Counsel
Indira McDonald, Deputy Commissioner, Legislation
Ed Gill, Senior Deputy, Division of Corporations
Lila Mirrashidi, Deputy Commissioner, Legal
Colleen Monahan, Senior Counsel
Jim Sweeney, Deputy Commissioner, Strategic Support
Eric Davies, Special Administrator, California Financing Law

PUBLIC

Mike Lemyre, Senior Vice President, Ygrene Energy Fund
Cliff Staton, Executive Vice President, Renew Financial
Demetra McBride, County of Los Angeles
Jennifer Sperling, Bet Tzedek Legal Services
Jith Meganathan, California Low Income Consumer Coalition
Bob Giles, CEO, PACE Funding Group
Casey Dailey, Western Riverside Council of Governments
Joe Levaitch (phonetic), Spruce Finance
Ari Matusiak, Renovate America
Karen Lang, on behalf of Joe Kelly, Treasurer and Tax Collector, County of Los Angeles
Hugh Slayden, Senate Insurance Banking and Financial Institutions Committee
David Gabrielson, Executive Director, PACENation
Richard Eberle, Legislative Analysis Committee for the California State Auditor-Controller’s Association
APPEARANCES (CONT.)

PUBLIC (CONT.)

Lisa Sitkin, Senior Staff Attorney, National Housing Law Project

Dan Mierzwa, Yuba County Treasurer-Tax Collector

Jenine Windeshausen, Place County Treasurer-Tax Collector and PACE Program Administrator
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MS. OWEN: Okay. Good morning this is going to be a long day. You just heard me that saying we don’t have phone service available. And we apologize for that but there will be a transcript available and we will post that on our website.

So, good morning, my name is Jan Owen and I am the Commissioner for the Department of Business Oversight. I would like to thank you all for coming. I am sad and sorry that we can’t get you all, get your other colleagues on the phone but, you know, Murphy’s Law. And it is Friday morning.

So, I’d like to introduce my staff. I want to -- you all need to understand how important we think this is.

MS. OWEN: We’ll start with introductions and so you understand how important we think this is. You have the senior staff and the people that truly will be doing the work. I would like to introduce Scott Wyckoff who is the General Counsel. Scott raise your hand, people may not know who you are. To his right is Indira McDonald. You saw Indira at the last session. Indira is our Deputy Commissioner for Legislation. To her right is Ed Gill. He is Senior Deputy for the Division of Corporations where this law will be housed. To my left is Lila Mirrashidi. You saw her on that fateful Friday night and she is the Deputy
Commissioner of Legal. To her left is Colleen Monahan. For some of you that have been doing work with the former Department of Corporations and the Department of Business Oversight you will be familiar with Colleen’s excellent work. Colleen is truly the woman that wrote a lot of this legislation. We are very, very proud to have her with us on our team. And Colleen is a senior counsel. And to her left is the head of our strategic support which is Jim Sweeney. Many of you know Jim from his previous lives and I’ll say multiple lives. So you have Eric, who is heading up the California Financing Laws application process, will be joining us soon.

So, I just need you to understand the importance that we put on this and clearly from your attendance the importance that you take this new licensing scheme for PACE. Governor Brown signed the Legislation and it truly is establishing the nation’s most extensive set of consumer protections for California homeowners.

DBO will draft regulations to implement this law. And that’s what this meeting is about today what DBO is doing. We are gathering information. Many of you that are on our list got last night or yesterday an invitation to comment on proposed regs. In doing that, what does that mean? That means we don’t start the regulatory process through the Office of Administrative Law. It means we want
to hear from you all first. And we want to hear what you are going to talk about and what is important to you.

Most of my lending or other types of law lend itself to regulations. This is important that we have you all here so that we can start talking about regulations. This isn’t an opportunity or a time to re-evaluate the law. If you are interested on changing the law that goes across the street to the Capitol and you will deal — and we will offer to everyone technical assistance. But I do not — if you guys have opportunities to talk to us, don’t want us to talk about changing the law at this point. That’s not what we are here to do. The Legislature gave us a policy, gave us a new lending — or, excuse me, a new structure and now we have to figure out how to implement it.

As you know we have specific timelines in that law and I want — we have to hurry. So, many of you that have worked with regulatory agencies before, for us to even send out an invitation to comment within 90 days of signing of a piece of legislation is pretty darn huge. You know, all of us have gray hairs over this.

And so, but it is important for us to do this. It’s important for us to hear from you. Because we have so many, we are limiting you to three minutes and that’s kind of a pain. But this is not your only chance to talk. You can write to us all you want to. You can send us emails.
You can please comment on the invitation to comment, invitation about how to comment on our regs. INR regs, we will be -- we have established certain things we are going to look at. The license application, so we need to put in the regs what that’s going to look like. The annual report, what the requirements of PACE administrators will be for the annual report.

Advertising standards. Books and records authority. When the regulator asks for books and records this is -- what does that mean? What’s our authority and what can we ask and what we’ll ask for, more importantly for you all.

Complaint procedures. When consumers come to us and complain what are the procedures? What are the processes? What are companies’ duties? Deceptive acts and practices. Periodic review standards, so what is that? That’s examinations. What are the standards that I -- that me and my staff have to adhere to, but also the standards we expect from the companies’ solicitor enrollment, monitoring, cancelling and notification standards. So, how are you going to manage your solicitors or your contractors?

And then we want to have some underwriting clarifications in the regs. That’s a lot just for those of you that have been doing this.

Thank goodness you are here Mr. Davies. Barely. Exactly. Eric Davies who is Licensing Specialist for the
Consumer Financing Law came in from San Diego. So, we are pleased to have him.

So, let’s talk a little bit about the timing. As of yesterday we are collecting writing comments. For this first round in the invitation for comment we have stopped. We are asking that you comment before January 5th. Short time frame. You guys are in the same time frame that we are, “short, short, short.” But again don’t think this is the only time you will be able to officially comment to us.

Please remember that your every single comment that you write is public. So, that will be -- it will be in the public domain, so don’t forget that.

It is our plan to issue the formal notice of rulemaking action with the Office of Administrative Law by 7-1 of 2018. So that’s why my hair is gray. And PACE program administrators have to be licensed by 1-1 of 2019. So, we will be providing you a deadline or a guideline of timing later on in 2018 so that you may receive a license by 1-1 of 2019 and you can do your business.

I want to make sure I get everything. There will be posted on our website -- oh I’ll talk about money, I think that’s important. Frequently asked questions about PACE: we’re getting questions, we’re getting a lot of questions into our consumer hotline so we are going to publish FAQs on PACE. We think that makes some sense.
Again, remember, we are the regulator, so these aren’t advertising, these aren’t marketing. These are boring responses to frequently asked questions.

Billing and assessments. Once licensed, the program administrators will be required to pay an annual assessment and will be billed an hourly rate for all department exams. Exams are currently billed at $80 dollars an hour per person. The annual assessment required to be paid by all these licensees is, and this is important, a pro rata share of all the Department’s costs and expenses to administer the California Financing Law.

So, what does that mean? Basically, that means there are 43, 44 hundred CFL licensees?

(Off-mic comment)

MS. OWEN: Five or six thousand? So, instead of having 13 licensees that you have to do a pro rata share, now you’re lumped in with 56, or 52 hundred licensees. Makes it a whole lot cheaper, number one. But also it makes it fair. If we were going to license you and have you start paying a whole lot of money, this wasn’t going to work. And we didn’t think that that made sense. So you will, the pro rata share is a portion of your license’s gross income, to aggregate gross income of all other licensees and candidly it may --

(Off-record comments)
Okay, let me go through that again. Annual assessment is required to be paid by all these licensees and it is a pro rata share of all the Department’s costs and expenses to administer the California Financing Law. The pro rata share is a portion that a licensee’s gross income bears to the aggregate gross income of all licensees, and naturally it will vary year to year. The minimum assessment is two thousand dollars a year. Ah, two hundred and fifty dollars. I was trying to change that, but that didn’t work. Okay, two hundred and fifty dollars. Sorry, sir.

For example, let me give you an example because that will help, this year the gross income for all CFL licensees was about 12 billion dollars. If a licensee’s gross income was about 7 million, the annual assessment would be 2000 dollars. Does that make sense? Annual assessment invoices go out in September and payment is due by October 31st. We fine licensees that don’t pay on time and we revoke their license for those who fail to pay at all.

And on average, I’ll just give you some data, on average we lose 40 to 50 licensees a year where people just refuse to pay their bills. They may be ongoing businesses, but my staff isn’t supposed to be hounding these guys. You want to do business in California, you pay your fee. It’s kind of that simple.
Since I never follow what I’m supposed to do on my talking points, which makes staff crazy, I think that’s all I want to say. And ask that we start by rows of people that want to talk first. And since I know many of you, if you don’t want to get up and talk but I think you have something to say, I may call you out. Stan Wieg. And would like to hear from you.

So, with that let’s start with the front row and the woman to your left. Would you like to make any public comments? Stan? I’m sorry? And we need you to have you go up to the podium.

MR. WIEG: I have no comment right now.

MS. OWEN: Lexi? You guys are doing absolutely exactly what I said you weren’t going to do.

Sir? Good morning.

MR. LEMYRE: Good morning, Commissioner and staff. My name is Mike Lemyre, Senior Vice President of Ygrene Energy Fund. On behalf of Ygrene, I’m pleased to be here today along with our CEO, Rocco Fabiano, and several of our colleagues to participate in the kickoff of what we consider a new era in PACE.

Ygrene is one of the oldest and largest PACE administrators in the country and we have financed over 40 thousand projects and a billion dollars. I say that because we have successfully worked with and operated under the
supervision of hundreds of cities and counties, and multiple
JPAs, and other subdivisions of the State of California over
the last seven years. And our management team,
collectively, has decades of experience in working regulated
financial service companies and industries and we truly
understand the value and benefits of a well-regulated
industry.

We have a model track record of contributing to
the development and implementation of consumer protection
laws, policies, program rules that underpin this vital
component of this State’s environmental policy and the
component of the marketplace for consumers. And my
colleagues and I look forward to supporting and
collaborating with you and your teams as we undertake the
rulemaking process for AB 1284.

To keep my comments brief -- well, you will
undoubtedly hear many stakeholders today and through this
process with any number of issues. We have just two points
today that I’d like to list or voice for the record. We
respectfully make these suggestions. We urge the department
to work judiciously to promulgate the rules, particularly
the ability to pay criteria, as soon as possible. So, we
appreciate your transparency on your expected timeline.

It is particularly important or critical that
local governments and administrators, in particular, have
this clarity so that we are able to implement, through
operational processes, our technology systems, and our
channels that go to market to reach consumers with the PACE
product, that we’re able to comply with not just the spirit
but the technical aspects of the regulations.

And then second, hope that we don’t lose sight of
the fact that PACE is not just merely a financing option, a
consumer finance option, although it certainly is, but it is
a creation of the state and local laws, and it serves a
declared public purpose. There are 12 or actually now 13
PACE statutes that have been passed in California expressly
establishing the instrumentality of California’s energy
environmental policy through this option.

So, I think that it is critical that regulations
protect consumers but also respect these attributes of PACE
as we, all of us in this room, and many on the phone and
many throughout the last 10 years now, have brought this
product to the market. So, as new partners in developing
the regulations and rules of the road, going forward we want
to bring that history, that experience and contribute
constructively to this process. We appreciate everyone’s
time and efforts and ongoing ones in the future. Thank you
very much for this.

MS. OWEN: Thank you. Is he speaking for all of
Ygrene? Sir? Good grief, this could be a short meeting.
Who’s buying coffee after this? Excuse me, sir? We are going to go around. It’s just easier this way, guys.

MR. STATON: Good morning, Commissioner.

MS. OWEN: Good morning.

MR. STATON: My name is Cliff Staton. I’m the Executive Vice President of Renew Financial. And our CEO, Cisco DeVries, actually came up with the idea of PACE almost ten years ago when he was chief of staff to the Mayor of Berkeley, and left the city to set up Renew in order to establish an administrative PACE programs for local governments. And we now represent work with about 400 local governments throughout the State and covering about 90 percent of the state’s population.

And, really, thank you for the opportunity to be here as we embark on a new era of PACE. I mean that was -- we’ve been here since the beginning, literally since day one.

But this 1284 and this 242 I think represent a really exciting new time for PACE and we are pleased that the Department of Business Oversight has been given this responsibility to oversee the PACE industry.

Standardizing and improving consumer protections and what is a relatively new and growing industry are, we think, essential to its growth and to ensuring the continued growth of the significant environmental, national natural
disaster resiliency and economic benefits that PACE was created to deal with. We also think it is equally essential that the public policy goals of PACE during this transition period be focused upon so that we establish new regulations that would allow those public policy goals to continue to be achieved.

We’re going to have written comments and, as Mike did before, I’ll just have a couple of issues to highlight here. And, similarly, you know, we think clarification around the issue of ability to pay is an important issue for the Department to take on soon. You know, in particular the issue of residual income. You know, the cost of living varies pretty dramatically throughout the State of California and we think it’s important the Department weigh in on this soon and also provides a clear timeline so that all PACE administrators have the same understanding of the regulations and the law, and understand it in the same way, and can implement it on the same day. So that the market is standardized.

Second, you don’t address it in the document you sent out last night, but we think that the PACE registry is also a really important top priority item. We have been working with the other PACE, the two other major PACE providers and although the statute calls for the Commissioner to make a rule on this by January 1, of 2020, we think that
can be achieved much sooner and we would urge her to do so.

    We are very focused on it and think it’s an
important, not only consumer protection, but an industry
standard that needs to be reached.

    And third, the statute is written in such a way
that it appears that the training should be done by each
individual PACE administrator. And we wanted to get
clarification from the Department that rather than doing
that, that we may contract with an outsider entity that
would train for the entire industry. We think it would be
burdensome for contractors, if they want to shift from one
PACE administrator to another, to have to essentially get
the same training over and over again. And so, we would
like clarification that we could in fact contract with one
entity that will also have the same level of training for
everybody. You don’t get one kind of training from one
administrator and a different one from a different one.

    So, those are highlights. We’re going to have
additional written comments, but really look forward to
continuing to work with you all.

    MS. OWEN: So, I’d like to comment on the training
aspect. You forget that sometimes when you do a new
regulatory scheme you all of a sudden -- new cottage
industries pop up. And I heard from two interested entities
that want to be blessed by the Department as PACE
administrator trainer or PACE trainer.

The Department regulatory scheme will never endorse a trainer, so we would look -- that’s, candidly, the company’s duty, right. Are these guys doing that type of training that you had to have to comply with the law?

So, I love the idea of cottage industries. I love the idea of small businesses, but don’t call me and ask for me to endorse you because it is not going to happen. So, that and the duty truly is on you as the company to make the right business decision that’s best for you to have you comply with the law and protect the people that use your product.

MR. STATON: Makes sense.

MS. OWEN: Makes sense? That’s what I would like, sensible regulations.

Thanks, Cliff. Sorry, I didn’t mean to tease you.

MS. MCBRIDE: Good morning everyone, my name is Demetra McBride. I am here representing the County of Los Angeles. As you know, we oversee a very large region and we are currently in the process of expanding our number of operational PAs within our territory.

I, too, am not going to make definitive comments. I think that the density and the complexity of the law really calls for us to be clear and concise and comprehensive. And, also, as you can imagine, I have a
number of internal stakeholders, not the least of which we partner with our Treasury and Tax Collector’s Office on this program.

I will point out and it’s good to see that this early in the morning we are kind of being consistent. I will point to a couple of key areas. They are not exhaustive. But we, too, really support the importance of the real-time registry. This is essential. I would love, I know that the law is written in a particular way, but I would love to see if there is a way we can incentivize the program administrators to accelerate the training. I think that three-month gap can be dispositive between the licensing and the training date. And we would love to see some standardization and uniformity, and certain criteria and standards that are embedded within the law. For example useful life.

We have key references that are established within the State under the CPUC and the CEC and others, and we would hate to enter into a market that now is regulated but where we allowed for there to be potentially forum shopping or PA shopping within a single jurisdiction. It adds confusion in the marketplace and, obviously, we want to avoid that.

And last, I would love for us to really look at the regulatory authority or the oversight on these
solicitors and the solicitor agents. They are the people that are out in the field having the direct contact with consumers and they’re our proxy. So, whatever miscommunication or omission there really cascades down throughout the stream.

Thank you very much. We look forward to working with you and thank you very much for undertaking this very important duty.

MS. OWEN: Thank you.

Sir, you’re safe.

(Off-mic comment)

MS. OWEN: Please, come on up. How did that happen, young lady? Yelling, yelling too much, right. Ah, ah, ah. Don’t start me.

Good morning.

MS. SPERLING: Hi, good morning. My name is Jennifer Sperling. I am here representing Bet Tzedek Legal Services. We are a non-profit legal organization based in Los Angeles that serves over twenty thousand clients every year, including low-income and elderly homeowners. We have many clients whose homes have been put at risk by unaffordable PACE liens.

And I would like to use my short time here today to highlight a few places where we believe rulemaking is needed to close potential loopholes in AB 1284 and
strengthen protections for our vulnerable clients. And I am
going to be a little more specific in my comments than some
other people have been before me, although, I am encouraged
about what I have been hearing so far about a new era in
PACE.

So, the story of one of our clients, who I would
call “Robert”, is illustrative for this purpose although
these issues are not unique to Robert. They are systemic
issues that DBO is now in a position to impact. Robert is a
senior and retiree. He lives on a total monthly income of
about twenty five hundred dollars. He has medical
challenges that require ongoing care and monitoring. Robert
unknowingly ended up with multiple funded assessments from
multiple PACE administrators all within a short-period of
time.

The total amount financed was over one hundred
thousand dollars. Robert’s taxes are impounded by his
lender and when they ran his next escrow analysis there was
a shortage of thousands of dollars. His mortgage jumped
from nine hundred dollars a month to over three thousand,
exceeding his total monthly income. We met him when he was
already facing foreclosure.

Looking at 1284 with Robert in mind, we urge DBO
to clarify the mechanism by which section 22678(g) will
work. If administrators are going to finance first and then
run numbers later, they should be required to deliver any
difference immediately, within days, to prevent collateral
consequences like foreclosure by third party lenders. There
should also be a process for homeowners to appeal if there’s
an allegation that the intentional misrepresentation
exception applies.

The real-time database contemplated by 22693 could
help avoid the problem of multiple assessments, but only if
“real-time” is defined as the date the assessment is funded.
If “real-time” is the date when the assessment is recorded,
which could be months after funding, this provision will
fail to prevent situations like Robert’s. In verifying
expenses under 22687, DBO should make rules that reflect the
realities of homeowners living on fixed incomes and take
into account medical or caregiver expenses, which are
housing expenses because they allow disabled and elderly
people to keep living in their homes, but they do not always
show up as debt.

We also believe housing expenses should consider
whether the homeowner has a third party lender who will be
adding a statutory escrow cushion to their tax impound.

Lastly, for my comments today --

MS. OWEN: Could you say that again, please?

MS. SPERLING: Sure. So, lenders by statute have
to make you -- if you impound your taxes --
MS. OWEN: Right. Right, right.

MS. SPERLING: You have to have a cushion of two months’ worth of escrow.

MS. OWEN: Right.

MS. SPERLING: And so, if you end up with an escrow shortage, in order to make that up not only will they add the shortage but they will add the two months on top of that. So, it’s an even larger gap that the homeowner has to make up if they fall behind.

MS. OWEN: Right.

MS. SPERLING: And currently housing expenses don’t -- the way it’s defined they don’t consider what will happen if your tax increases --

MS. OWEN: If they fall behind.

MS. SPERLING: -- and you end up with an escrow shortage.

MS. OWEN: Within the impound account?

MS. SPERLING: Correct.

MS. OWEN: Got it. Okay. No, that makes sense.

MS. SPERLING: Lastly, for my comments today, there will be more and we appreciate the opportunity to continue to dialogue with you on this, we ask that DBO clarify section 22687(e), the emergency exception. We’re concerned that a “system whose primary function is temperature regulation” might end up expanding to products
beyond the heating and cooling systems this narrow exception
was designed for.

So, thank you for your attention today, and we
look forward to working with you on these very important
consumer protections and regulations.

MS. OWEN: How are you? Are you another one with
a larynx problem?

(Laughter)

MR. MEGANATHAN: No.

MS. OWEN: The long and short of it is no. Nice
to see you, sir.

MR. MEGANATHAN: Good morning, Commissioner.

MS. OWEN: How are you?

MR. MEGANATHAN: Jith Meganathan. I’m speaking on
behalf of the California Low Income Consumer Coalition, a
statewide group of nonprofits that assist indigent clients
facing financial and legal hardships stemming from largely
consumer abuses.

We were actively engaged in negotiating the
provisions of last year’s SB 242 and AB 1284. Our primary
goal in the rulemaking process is to ensure that low-income
Californians do not face financial peril, including the risk
of losing their homes or their hard-earned equity as a
result of entering into PACE financing.

In order to achieve this goal, the topics on which
we believe rulemaking is both warranted and necessary are as follows: first, clarifying the ability to repay determination. This is the most important topic for rulemaking and it is imperative that it be done in a way that protects homeowners going forwards rather than facilitating more predatory PACE financing of the kind that Ms. Sperling spoke about.

The second is ensuring that PACE administrators are regulated in their roles as issuers or facilitators of non-PACE financing.

The third is clarifying the definition of a “PACE solicitor”.

The fourth is setting forth the content of required annual reporting.

The fifth is clarifying required financial disclosures to homeowners as part of the financing process.

The sixth is ensuring that the permitted term for repayment of PACE financing does not exceed the expected life of the financed home improvements.

The seventh is clarifying the timelines for PACE administrators to respond to any findings by the Commissioner of rules violations.

The eighth is ensuring meaningful penalties for rules violations.

And the ninth is ensuring the existence of a
robust public, and I want to emphasize that word “public”,
database of PACE-related information.

We look forward to working with the Department and
the various stakeholders in order to ensure that the
forthcoming regulations adequately address these concerns
and thank you very much for your time.

MS. OWEN: Repeat number two again for me, please?

MR. MEGANATHAN: Yes. Ensuring that PACE
administrators are regulated in their roles as issuers or
facilitators of non-PACE financing. I don’t know if you’re
aware of this, but there are unsecured financing products
that are offered by PACE administrators in conjunction with
PACE financing.

MS. OWEN: So, outside of a PACE --

MR. MEGANATHAN: Yes.

MS. OWEN: -- PACE transaction? Got it, okay.

MR. MEGANATHAN: Thank you.

MS. OWEN: Nice to see you. Nada? Come on
financial services. Kevin. Please.

MR. GILES: Madam Commissioner and staff, I’m Bob
Giles. I’m the CEO of PACE Funding Group.

We’re very excited that you’re now involved and
the industry is finally being regulated. It’s been badly
needed. We are one of the smaller programs, with 200 cities
and counties throughout the State. But smaller largely
because of our conservative underwriting standards.

So, I’m just going to make three points. One is we really look forward to seeing the details of the regulation, particularly with respect to underwriting standards. And we really urge for a lot of detailed standardization so that everybody’s operating from the same playbook.

Secondly, with respect to training we agree with Cliff in being able to outsource that, contract it out to a capable party. I think that would be very useful for the entire industry, for all the PACE programs.

And then, you know, thirdly, we’re very interested in seeing what the licenses will look like. And if you could speak to that, that will be terrific. Looking at the licensing for the PACE programs, which will be due at the end of -- in January 2019 I guess we’re all supposed to be licensed.

MS. OWEN: Right.

MR. GILES: Right. And what does that license, you know, look like?

MS. OWEN: The physical look of the license?

MR. GILES: Yeah, does it mean it resemble a --

MS. OWEN: An 8-by-10 piece of paper with a seal on it, with my signature.

MR. GILES: Okay, terrific.
MS. OWEN: At least at that point it’s my signature.

MR. GILES: So, you’re not pulling from the mortgage or the real estate industry with respect to their licenses?

MS. OWEN: No, they have the same type of document.

MR. GILES: Okay.

MS. OWEN: I think. Am I missing something?

MR. GILES: No. You know, this is all new to us, so we’re looking for some clarification.

MS. OWEN: Okay. All right.

MR. GILES: Okay, so --

MS. OWEN: No, no, no, but we would -- I mean we’re working towards a database so that also -- so, for mortgage on MLOs you would look to -- we would hope you would be on a database where people could say, okay, whose, you know, PACE Financing Group are you going to do the --

MR. GILES: Okay.

(Off-record comment)

MS. OWEN: Right, a piece of paper. Yeah.

MR. GILES: Okay. Well, that all sounds great.

MS. OWEN: We don’t have any more gold, to give you a little gold like your --

(Laughter)
MR. GILES: Well, thanks. Thanks for the clarification. Look forward to working with you.

MS. OWEN: Oh, thank you. It's a piece of paper. It's documented. You would be on our website as one of them, so that's also an indication of the licensee. We're hoping for the database to be able to use it, so anybody could find out who you are.

MR. GILES: Okay, terrific.

MS. OWEN: We believe that other states are going to start doing this.

MR. GILES: That we will welcome. Thank you.

MS. OWEN: Thank you.

Please, your turn. You're up.

MR. DAILEY: Good morning. My name is Casey Dailey. I am here representing the Western Riverside Council of Governments.

MS. OWEN: Are you a JPA?

MR. DAILEY: Yes, we are a JPA.

MS. OWEN: Thank you.

MR. DAILEY: We launched our PACE Program in 2012. And as of today we currently have five residential providers, most of all who are in the room here, that operate our program within our sub-region. We also operate or we oversee the administration of the California HERO Program statewide. To date we've --
MS. OWEN: Say that, again?

MR. DAILEY: We also oversee the administration of the California HERO Program statewide.

MS. OWEN: Statewide you do oversee it.

MR. DAILEY: Yes, ma’am.

MS. OWEN: Okay, thank you.

MR. DAILEY: To date we’ve been involved in over 77,000 projects and we have over 370 jurisdictions that we are responsible for.

MS. OWEN: How come you don’t have any gray hair?

MR. DAILEY: I do.

(Laughter)

MS. OWEN: Nicely done. You would have thought you and I planned that. Nicely done.

MR. DAILEY: It’s slowly spreading, trust me. Hopefully, to avoid the spread we are very supportive of what DBO is doing here with 1284. We’re very encouraged by kind of the leveling of the playing field, standardizing the program across all platforms.

I’m very interested in, obviously, the ability to pay and a lot of what other people have talked about here. And I think that creating the uniformity around useful lives around products, not having those tied to the financing terms, and really, you know, creating a program that can be a long-term, viable, and sustainable program moving forward
is what we’re most interested in. And we are here to help
and support in any way possible.

So, I’m going to keep my comments brief. But we
will be submitting fairly extensive written comments with
some of our background and experience. So, thank you very
much.

MS. OWEN: Thank you.

You’re with him? Please.

MR. LEVAITCH: Good morning Commissioner and
Staff, Joe Levaitch on behalf of Spruce Finance. Spruce is
currently serving nearly 200 cities under the CSCDA Open
Pace, as well as WRCOGs PACE Programs.

Spruce is currently a licensee under DBO for their
work in the unsecured clean energy finance space, serving
nearly 70,000 homeowners throughout California.

MS. OWEN: And so, you have a CFO license?

MR. LEVAITCH: Yes. Bruce was also the first in
the industry to implement mandatory callbacks for all
customers. So, we’re encouraged by the standardization
around consumer protections for PACE.

We’re looking for clarifications around ability to
repay and what exactly that will look like. But we look
forward to continued work with DBO.

And that is it at this time. So, we thank you for
your comment and time. Thanks.
MS. OWEN: Did I miss that row? Oh, the whole
family. Got it. Got it.

(Laughter)

MR. MATUSIAK: Good morning Commissioner Owen and
members of the Department of Business Oversight. My name is
Ari Matusiak, Chief Strategy Officer at Renovate America.

Thank you all so much for your leadership and for
the opportunity. I will keep my comments brief. And I’m
heartened by the consistency that is in the room in terms of
the issues that are being raised. I think it speaks to both
the rigor of the process that you all went through in the
shaping of the legislation, as well as the opportunity
before us from a policymaking perspective.

MS. OWEN: We still haven’t gotten enough sleep.

MR. MATUSIAK: Yeah, the same. As you all know,
Renovate America was very supportive of both SB 241 and AB
1284. We see these as critical advancements in the overall
effort to set a standard for how PACE should be understood
as both a policy and an industry. And that accomplishing,
achieving this in California will not only benefit
California homeowners and California communities, but the
rest of the country as well.

I would just call out four items that I think are
perhaps deserving of public note. And we will certainly
follow up with our own comments by January 5th. Many of
them have been already referenced, but just to underline a
couple, the first being the real-time registry. So, we,
too, think that this is a time-sensitive item. We also
think it’s a little bit of a low-hanging fruit item. It is
not necessarily without technical issues to consider and
work through, but it is something that once in place in
California will go a long way to insuring that there is
consistency in the industry, and visibility and transparency
for all parties into the assessments that are being
originated and where they are being originated.

Second, just a comment on implementation. As has
been referenced by other folks who have come up here, SB 242
and AB 1284 have effective dates that begin January 1, of
2018. AB 1284, as you know, really has three effective
dates of January 1, April 1, and then January 1, of 2019.

While those are rolling forward and we understand
them to be effective when they are effective, it also has
created, I believe, a little bit of market confusion and
noise. To that end, Renovate America, Ygrene, and Renew
Financial wrote a letter to all of our contractor partners,
outlining that we will be complying and expect full
compliance with SB 242 and AB 1284.

I would ask that the DBO consider perhaps
emphasizing that point to all parties. That even though
licensure happens on January 1, of 2019, that the
expectation is that folks are going to be following the law starting on January 1, of 2018.

   The third item relates to underwriting. And again, other folks have raised the importance of defining the particularities of AB 1284 underwriting requirements, specifically with respect to the ability to pay. There are a number of technical definitional issues that I know you all are aware of and we will all be benefitted by your offering clarity on those issues as we go to market with our compliant product.

   And then the fourth, which has not been referenced, yet, is with respect to the relationship between the DBO and the CSLB and the licensure requirements for the PACE contractors, the PACE solicitors and the solicitor agents. CSLB really is a fundamental part of the success of the AB 1284 regulatory regime and operational framework, and we hope to see their active participation in thinking through some of the market dynamics, and regulatory dynamics that are going to be critical in order to ensure that we can all meet the requirements of the law.

   And with that, you’ll see our comments in writing, and we appreciate very much the time and opportunity to be before you today. Thank you.

   MS. OWEN: Sir? Sir? You guys are making it too easy. Mr. Burkett? Nada? You’re the one who’s been here
before.

(Laughter)

MS. OWEN: Ma’am?

(Off-mic comment)

MS. OWEN: Oh, okay, to be the last one? Okay.

All right, that’s fine.

Good morning, young lady.

MS. LANG: Hi, good morning. Karen Lang. I’m actually here to speak on behalf of Joe Kelly, from Los Angeles, who is on the phone but, unfortunately, can’t dial in. And now, I’ve lost the email that he sent me. So, he says he’s waving to you.

MS. OWEN: Tell him, hi, Joe.

MS. LANG: She says, hello, Joe.

“Good morning Commissioner Owen, staff and participants. This is Joe Kelly, Treasurer and Tax Collector for the County of Los Angeles. I join this morning with several county tax collectors in providing comment.

Related to the advertising standards, we recommend that the Department of Business Oversight develop a standard brochure which solicitors and contractors should provide to all PACE applicants. They should include disclosures on, among other things, one; the dollar impact of a typical PACE loan on the property owner’s annual secured property tax
bill. A $25,000 loan at 6 percent for 20 years, et cetera.

The eligibility criteria to qualify for a PACE loan. The fact that PACE is not a “free government program.” We encourage you to prohibit terms like public/private partnership, and government-baked, which suggests to the consumer a strong government role.

Prohibit statements or suggestions of tax advantages of a PACE loan. Require the disclosure of the IRS position that payments on a PACE loan on not deductible real estate taxes. However, the interest portion of your payment may be deductible as home mortgage interest.

Consumer compliant options available to the property owner.

DBO should post this brochure on its website and solicitors and contractors should be required to provide a hyperlink to it in all of their marketing materials, and as part of the application itself.

Similar to how many have viewed the Ten Commandments, we view this brochure as a sacrosanct guiding set of disclosures which will help to ensure the California PACE consumer is, above all else, an informed PACE consumer.

And related to the complaint processes and procedures, each PACE administrator needs to have complaint protocols and processes in place. Consumers should be able to file via telephone, web, or in writing. Consumers should
be able to file complaints in languages other than English. And for the deaf and hard-of-hearing consumers there should be video relay capability.

DBO should require each PACE administrator post complaint statistics on the DBO website each month, with easy sort available by PACE administrator and contractors within that administrator.

We also recommend the DBO establish a PACE consumer hotline, funded by PACE administrators, but overseen by the DBO for matters that aren’t resolved by administrators and for other referral purposes.

And finally, contractors that develop a documented pattern of complaints should be disallowed from all PACE programs, not just the one in which they have a current relationship."

MS. OWEN: Karen? Is Joe going to also put these in writing and comment?

MS. LANG: Yes.

MS. OWEN: Okay, that’s all I wanted to know.

MS. LANG: I have one paragraph left.

MS. OWEN: No, it’s cool. No, no, no, I just wanted to make sure because if he wasn’t, I wanted to ask him to do it.

MS. LANG: Yes, he will do that.

MS. OWEN: Okay, great. Thank you.
MS. LANG: “Lastly, Commissioner Owen, I encourage the Department to consider not allowing PACE loans to remain with the property, if the property owner refinances property debt. Earlier this year, Los Angeles County announced a policy stance that the County would not enter into limited subordination agreements to allow that to occur. In Los Angeles County, PACE gets paid off before the property owner gets to put extra cash into his or her pocket.

And the California Association of County Treasurers and Tax Collectors looks forward to the continued dialogue in this rulemaking process. Thank you.”

MS. OWEN: Thank you.

MR. SLAYDEN: Good morning, my name is Hugh Slayden. I’m with the Senate Insurance Banking and Financial Institutions Committee.

I’m really only here to kind of confirm something that I understood earlier. As I get it, you were going to be doing one package of regulations that you intend on doing the formal notice on July 1st. So, implicitly that means you will not be doing any sort of emergency regulation or anything to address those provisions of the bill that go in prior to January 2019. So, I just wanted to confirm that that’s correct, there’s no separate, it’s all one package? Thank you very much.

MS. OWEN: Final, please. Final row. Oh, you
Thank you Commissioner and staff for inviting us to participate in this. I’m David Gabrielson. I’m the Executive Director of PACENation.

We are a national 501(c)(3), largely foundation funded, nonprofit advocate for PACE, both commercial PACE and residential PACE. Our stakeholders include state and local governments, similarly mission-minded nonprofits, and a growing number of private sector participants in the PACE marketplace.

We applaud California’s passage of 1284, 242, and 1093. We think these are extremely positive steps for the PACE marketplace, as is the Department of Business Oversight’s oversight of PACE programs. We’re advocates for regulation. We think it’s appropriate at the state level and states that want to take it on.

We will provide written comment and appreciate your invitation to do so.

PACE is a very powerful tool to help local governments, and homeowners, and members of the business community achieve shared objectives. This legislation is designed to address some of the flaws that others have spoken to. Particularly, the ability to pay requirements of 1284 and the registry, which we think is a very important
tool to make sure that homeowners don’t receive multiple assessments.

We’re particularly interested in education and testing. And I don’t think we seek your exclusive blessing. We will, because this is what we do, work with our stakeholders and that includes local governments and PACE providers, to develop an education and testing program that is effective and that I think ensures that all contractors or solicitor agents receive a very high quality standard of education that is consistent. We think that’s beneficial to them, and to PACE providers, and to consumers.

And I guess we would look to -- as we, hopefully, work with you going forward, we would look to you to acknowledge with individual providers that -- providers? Program administrators. My terminology on the law has -- to ensure that the education and testing program that they present to you for approval meets your approval. It would be as simple as that.

So again, I thank you very much for holding this session today and we look forward to working with you going forward.

MS. OWEN: One of many.

MR. SLAYDEN: Thanks.

MS. OWEN: Thank you.

MR. SLAYDEN: Yeah.
MS. OWEN: I couldn’t figure out any other way to
do this, so I know it seems a little disjointed but --

MR. EBERLE: Good morning, Madam Commission. My
name is Richard Eberle. I represent the Legislative
Analysis Committee for the California State Auditor-
Controller’s Association.

We have a unique interest in the PACE legislation
as well because regardless of who is doing any of the
action, all of the PACE assessments will come through the
Auditor-Controller’s Office before they get placed on the
tax bill.

And there’s a couple of concerns that we have,
initially. Typically, when we put direct assessments, which
are special assessments on the tax bill, or on the tax roll,
there typically is some sort of validation from the agency
that’s authorizing the assessment to be put on the bill.

And one of our concerns we have is that how is --
as the auditor/controller, we’re concerned about validation
to make sure things are accurate and that they comply with
the proper regulations.

And we appreciate the opportunity to be a part of
the process so that we can understand how we best can
validate that each assessment has been -- it conforms with
the proper standards as set up by the Department of Business
Oversight.
Every assessment that goes on the tax roll is validated to make sure that the approving body, such as in this situation it would be the program administrator, but that they’ve approved it. That the person, the people that are allowing it to be put on the tax roll have voted or made a decision, a conscious decision to allow that assessment on their tax bill.

And so, we’re concerned of what we can do or how we can make sure that these assessments are legitimate for each individual taxpayer.

MS. OWEN: Because it hasn’t happened in the past?

MR. EBERLE: The PACE assessments behave differently than every other assessment we’ve put on the roll before. Typically, it’s not like a fire district just placing a fire assessment or a service fee on the --

MS. OWEN: And it’s not Mello-Roos.

MR. EBERLE: That’s correct it’s not Mello-Roos.

But the voters have made a conscious decision. The property owners have made a conscious decision through some mechanism. And typically, in the past, it’s been a group type decision. Everybody in the specific geographic area has voted, yes, we agree to have this assessment placed on our tax bill.

MS. OWEN: Through a city or a county? I mean, I get where you’re trying to.
MR. EBERLE: Yeah, that’s correct. That’s correct through a city or a county or --

MS. OWEN: So, the city or the county representatives say, yes, we would like to offer to our property owners PACE products.

MR. EBERLE: Well, no, but aside from PACE products, these types of assessments, as far as I can understand, have never been collected on a tax bill before. And so, they don’t behave like any other animal that we’ve addressed putting it on a tax bill.

And so, our main concern is how do we validate that the individual property owner has validated, has approved that these assessments can go on their tax bill? What mechanism do we have as auditor-controllers to make sure that all the I’s are crossed -- you know, the T’s are crossed and I’s are dotted.

MS. OWEN: I got it. I do it all of the time.

MR. EBERLE: I know. It’s horrible.

MS. OWEN: It is.

MR. EBERLE: I’ve lost my hair over this process.

(Laughter)

MS. OWEN: So, we don’t make cracks about gray, right.

MR. EBERLE: Well, it’s gray. That’s probably the reason why I shaved it off.
No, but -- and so, that’s our main concern. How do we validate that this process, the integrity of the process and the legitimacy of these assessments? We do this for every other assessment that goes on the roll and we’re concerned about that.

So, we look forward to working with the Department of Business Oversight.

MS. OWEN: And you’re going to write a comment letter to the invitation to comment?

MR. EBERLE: Yes, absolutely.

MS. OWEN: Great.

MR. EBERLE: We also -- one of the concerns, and I’m not sure if this is part of this function, but SB 242 addressed -- there was some comments made about forbearance. And we hope that the Auditors/Controllers Association can be involved in the conversations about that. Because when we place these on the tax roll it’s typically once a year. And any adjustments to that affect many different processes that increase a significant workload for the tax collectors and the auditor-controllers to make adjustments to the tax bill. Any adjustments to the tax bill have a significant possibility and the likelihood to confuse taxpayers.

Just on a regular roll correction, or any changes to the bills we do now, taxpayers are almost always confused. And as much as the program administrator provided
information and open lines of communication, the Auditor-
Controller’s Office and the Treasurer-Tax Collector’s Office
are the ones that get the phone calls to deal with the
issues. And so, the taxpayers don’t want to hear, hey, you
need to go call this entity. That makes them even more
upset than they already are.

And so, again, we look forward to being part of
the process. We also look forward to making sure there’s
some standardization and consistency of how these get placed
on the tax roll and how these get removed from the tax roll.
So, thank you very much.

MS. OWEN: So, where are you located? Are you
here in town?

MR. EBERLE: I represent, I’m the Auditor-
Controller for Yuba County.

MS. OWEN: Yuba?

MR. EBERLE: Yes.

MS. OWEN: Great. So, if we needed you to come
down and talk to us, it’s a little easier than getting you
out of --

MR. EBERLE: Say, Inyo County or something like
that, I guess.

MS. OWEN: Inyo County, right.

MR. EBERLE: Thank you.

MS. OWEN: Thank you.
MS. SITKIN: Good morning. Thank you very much Commissioner and staff for hearing all of us. I am Lisa Sitkin, here from National Housing Law Project. We are a resource center for legal aid and other advocates, with a mission to help preserve access and preservation of housing for low-income tenants and homeowners.

I wanted to just bring to the conversation something that’s been alluded to in some of the earlier comments, which is a bit of a national perspective. Colleagues of mine around the country, at other consumer advocacy groups, and legal aids elsewhere are very concerned, as I am, that the PACE regulations that California adopts are going to be seen as a model for other states. I think, Commissioner, you actually alluded to this as well, about the registry. And in Washington. And this is going to be looked to by many people, many regulators and many government agencies.

And that makes it all the more important, not just for Californians, but on a sort of national level that we get it right.

In my view, we really still have not solved or even addressed, in some cases, some of the serious problems with the PACE financing model as it affects consumers. And I just want to ask that we not permit the need for speed, which I recognize because of the window and the timing of
the effective dates, but that we not allow that to outpace
the need for robust, thorough, clear and transparent
protections that protect homeowners like Robert, and others
who we’re starting to see in more numbers in Northern
California. It had been really concentrated, the problems I
was hearing about, in Southern California. But it’s
definitely, you know, making its way around the State,
understandably, and the concerns are growing with that.
That said we will be submitting comments. I
wanted to just touch on a few of the areas, non-exclusive,
that we’ll be speaking to.

I know that you’ve said that the issue of the
legislation itself is out of bounds here, but I will just
put on the record that we are still very interested in
seeing through the 1284 authors’ commitment to engage in and
commit to amendments that would clean up and clarify some of
the issues in the existing legislation. And I would ask
that the Department, as it did with the original
legislation, be involved in providing technical assistance
for that process, as well.

A couple of the areas I just wanted to touch on
are annual reporting. We will definitely be providing our
list of what we think is essential to go into that. And I
think one of the points I want to make is that in tracking
performance, or tracking problems, I think it’s really
important that we keep in mind that we have to look beyond
tax defaults. Property tax defaults are sort of often used
as a proxy for whether these went south or not. But there
are many ways in which the problems can be masked and not
show up as a property tax default.

For example, if the person has a mortgage and it’s
an escrowed property tax, the servicer’s going to be
advancing those dollars and then they’re going to show up on
the mortgage bill as part of the escrow impound. And that
might be invisible if that’s not something that we dig into.

So, I think that that’s a very important sort of
area, the whole interaction with escrow accounts, both that
existed before the PACE lien went into effect and that may
follow when somebody may default on their taxes and have
this servicer step up.

I also think it’s very important to address the
risk of stacking, both with respect to multiple PACE loans,
and I’m really encouraged to hear that there is sort of
momentum and interest in moving forward quickly on the real-
time database. I do think it’s important, as Ms. Sperling
said, that that include unrecorded, but funded transactions
so that we’re not dealing with this sort of window of time
where something drops off the radar.

But I also think it’s important to look at ways in
which rulemaking can be sure to address the issue of program
administrators who have contractors working, you know, sort of under their umbrella, who are also offering these other non-PACE products because that seems to be accelerating. And that’s another sort of risk of stacking, a different kind of stacking that needs to be considered.

With respect to the underwriting, I just think that it’s very important that we look at the income verification standards and setting some minimum documentation requirements to be sure that what’s being looked at is current and prospective income, and not past income. If somebody got a lump sum last year on their taxes, or something that might skew what the actual income is.

Finally -- oh, no, not finally. Two more. The complaint process I think needs to be robust and transparent. And I think, you know, at the hearing on 1284 there was a lot of conversation about the issue of confidentiality provisions. And I think those absolutely need to be addressed. And that every effort should be made to make the information about complaints, the tracking of complaints available to the public and to advocates as expeditiously as possible.

And then, finally, I think one of my main concerns here is that it’s not clear to me how homeowners directly get relief, you know, from a lien that’s recorded. That’s
not what this statute does, as I read it. And, you know, there is the provision in 22687(g) for, you know, providing for the difference if there is a discrepancy between the financed amount and the ability to pay analysis. In my view, it comes too late, but you’ve all heard that.

And I think that there has to be a lot of work done to make sure that there is a real process that happens quickly. Because these are situations where the problem can snowball very, very quickly. And we want to make sure that if there’s relief available, it comes as soon as possible.

Thank you.

MS. OWEN: Thank you.

Ma’am? Sir?

MR. MIERZWA: Good morning, Commissioner. Dan Mierzwa, Yuba County Treasurer-Tax Collector. You heard from my colleague, the Auditor-Controller, Mr. Eberle, a few moments ago.

And I kind of wanted to see where we’re going to go talking about from the public perspective. The Auditor kind of gave you a sense of what’s happening at the counter to the actual customers or constituents, as I would say, from our providers that have spoken today.

And then, the last speaker talked about the reporting, talking about the default or the delinquencies. That was an issue that the tax collectors had a high degree
of concern on. So much so that we saw the Wall Street
Journal had done a report several months ago.

One of the concerns I had was I fielded no more
than four questions from various providers, myself, about
the integrity of the data from the County of Yuba that was
submitted. That’s one of the areas where we want to make
sure the standardization is the foundation for good fiscal
policy for all of these local jurisdictions that are saying
providers, please help us provide that.

But we need to know what that data is saying. And
from that, we would like to see that delinquency, the
default data, and the capitalized interest as a component
that ultimately these constituents are going to pay. What
burden are they going to bear to have the sufficiency of
which they self-selected to have? That’s something we want
to facilitate.

But that annual reporting, if we can get that
standardized across providers so we can use that, so we can
see the trend lines. If we hit the next recession, what’s
going to happen.

And, Commissioner Owen, we talked about that
before when you spoke you spoke to CACTECH (phonetic). And
I appreciate that conversation because those calls come in
directly to the person that’s going to separate them from
their money. So, we share that same mind with you. How do
we prevent that? How can we make good public policy from a local level all the way up to the State level, being able to sort that data whether it be into a jurisdiction by zip code, a particular address, or all the way into a county level, so those public policymakers can make that decision?

So, that was one of the areas that CACTECH really was excited about this DBO being involved and being able to provide. So, we’re going to provide those comments. I think we provided them to you in writing, but to send those again.

MS. OWEN: I know, but make sure you do it from a regulatory standpoint.

MR. MIERZWA: Absolutely.

MS. OWEN: Right. Again, remembering that those are all public, but our responses as well are all public. So, that’s an important distinction. That’s helpful.

MR. MIERZWA: So, again, thank you so much.

MS. OWEN: Thank you. You guys from Yuba County plan on coming down 99. I’m going to want to see you.

(Off-mic comment)

MS. OWEN: Please.

Good morning Commissioner Owen and members of the panel. I’m Jenine Windeshausen, Placer County Treasurer-Tax Collector. I’ve been the elected Treasurer-Tax Collector in Placer County for 25 years. And for the last 10 years I
have been the Placer County PACE Program Administrator for the County and its six cities.

I’d like to speak to several areas that are under consideration today. With regard to applications, underwriting and disclosures, including the methodology for calculating APRs, I would urge that you consider consistency with real estate lending industry standards, such as Regulation Z and the Truth In Lending Act.

Underwriting should be verified and not based on sworn statements from property owners. I think that that can be a weak link in the underwriting practice.

Under deceptive practices, I urge you to consider rulemaking relating to the timing of when documents are executed, the timing of the rights to rescind, and the timing of when liens are recorded, and when the PACE assessment is added to the property tax bill.

These areas are really very esoteric, technical aspects of PACE funding and they are all areas that are ripe for abuse, and resulting in inflated costs for property owners.

Disclosures related -- should be made related to the APR. Again, hopefully, consistent with existing real estate standards and what consumers are accustomed to seeing.

Capitalized interest, which is a very foreign
concept to most consumers. When we hear, related to PACE, no payments for two years, alarm bells should be going off. Because for most consumers, when they hear no payments, they expect that there is no interest that accrues during that time period. But with PACE, the interest does accrue and it’s added to the amount of the financing, which is stacking interest on interest, if you will.

And then, also, disclosures related to the timing and the amount of their payments.

The rulemaking related to limited subordination, which my colleague from Los Angeles County mentioned, should really be considered. There are penalty interest rates and property losses associated with how defaults are ultimately collected and that can actually transpire one of three different ways.

Under Assessment District law, here in California, of which PACE is subject to, the PACE lender can strip the assessment from the property tax roll and pursue accelerated judicial foreclosure. If it is left on the property tax roll, and they can do that immediately upon default -- which they can start that process immediately upon default. And default technically starts July 1 of the following fiscal year in which the delinquency occurred.

The other way is through a bank foreclosure because they have an impound account and they’re not keeping
that impound account current.

And another way, ultimately, is if it is left on the property tax roll, the tax collector is compelled to sell the property ultimately at a tax-defaulted land sale, but not sooner than five years. We are barred from taking action prior to five years. We must take action by the seventh year. During that time, the assessment accrues penalties at the statutory rate of 18 percent, plus other penalties. And so, that can quickly become an untenable situation for a property owner.

We’ve heard some today about consideration related to low-income property owners. I’d like to also call attention to seniors. This is another area where we have seen problems and challenges. Again, because this can be very complicated financing and seniors sometimes don’t always have the ability to comprehend all of the consequences.

And I feel compelled to respond to something that was said earlier. I want to make the point that there are really very few jurisdictions which have the resources and the expertise to provide any level of meaningful oversight, let alone supervision of PACE Programs. By and large, once they have the authorization, I have to say it’s largely a carte blanche application of PACE. Thank you.

MS. OWEN: Thank you.
Anybody want to say anything else? Okay, anybody else on the team? No.

Final comments. So, the Department communicates through a monthly bulletin. You will find it on our website. And on that monthly bulletin we have lots of information. PACE will be added. I highly recommend that you add yourselves to the distribution of the monthly bulletin, number ne.

I struggle, also, with the comment, Lisa, with the regulatory schemes and doing it right. And I know, I’m speaking on this already across the country. You know, people are asking me to speak on it across the country.

I commit to you that we are -- we get our duties, we get our effective dates, but we’re also going to get it right. And I would tell you that’s why we have everyone here to listen to you, so that we all hear from you and make the commitment to you.

That being said, DBO’s considered a strong, but fair regulator. There’s lots of smiles, lots of teasing, but these are people that many of us have known each other for a long time. We’ve met you. Please don’t consider smiles and teasing as a weak regulatory structure. We take what we do very seriously.

Some people, in some industries, will tell you that we take no prisoners.
And I will tell you my commitment to you all and to the Legislature is to be that strong regulator. And start listening to the gossip about having to come into a meeting with the DBO when we’re not happy and consumers are not being taken care of fairly in California. It isn’t pretty. And some of your legislative advocates can tell you stories. And you don’t want to be Equifax right now, let me tell you.

(Laughter)

MS. OWEN: Getting to DBO and CSLB, we are working with them. We know they’re on the phone. We’re putting together an interagency agreement so that we can have a stronger working relationship with them. Do it so that it makes sense, so that we can truly build on a partnership that we already have.

I’m going to tell you what it’s like, though, to be a regulated entity because some of you don’t know. I’m not going to run your business for you. As a regulator, we’re not going to run your business for you. We expect you to make the right business decisions for your company, for your customers that comply with the law.

So, you guys make your decisions and you justify it. You guys take the risk. And that risk is part of your business plan and part of how you run your business. You depend on consumers liking you. You depend on consumers
wanting to do business with you. I would highly recommend that you never, ever, ever forget that.

PACE, as a program, started in 2008-2009 -- 2007. It’s time, now, for a regulatory scheme. This makes perfect sense. This is not bizarre. Would we have liked to have seen it earlier? Maybe. But we didn’t. But this is pretty consistent with other regulatory schemes.

Those of you that have been business or seen me before, I’ve gone through, because I’m old, four economic downturns. For the State of California, we will do everything in our power, when we start talking about economic downturn, to make sure that consumers have the knowledge and are protected during another downturn, because it will happen. And my expectation is that you will do the same.

So, with that you will hear a lot from us. I really do want to talk to Mr. Eberle. Is that who it is from Yuba? Can I see you afterwards, please?

MR. EBERLE: Be happy to.

MS. OWEN: Okay, because you kind of make -- so, I’m an old auditor. He gets into the details, he gets into that stuff that just gets my brain starting to want to talk to you a little bit more afterwards.

I want to thank you all. Have a lovely, safe holiday season. And we’ll be in touch, I’m sure.
Please, please, please communicate. You have lots of information. You have lots of ways to communicate with us. Don’t forget how to communicate with us, please. Thank you.

(Thereupon, the Meeting was Adjourned at 10:50 a.m.)

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TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of December, 2017.

Barbara Little
Certified Transcriber
AAERT No. CET**D-520