§10156. PACE mortgages; collection of PACE assessments; priority

1. Collection of assessments. PACE assessments do not constitute a tax but may be assessed and collected by the trust, a municipality or an agent designated by the trust or a municipality in any manner allowed under the PACE program, consistent with applicable laws.
[PL 2009, c. 591, §1 (NEW).]

2. Notice; filing. A notice of a PACE agreement must be filed in the appropriate registry of deeds. The filing of this notice creates a PACE mortgage against the property subject to the PACE assessment until the amounts due under the terms of the PACE agreement are paid in full. A notice filed under this subsection must, at a minimum, include:

A. The amount of funds disbursed or to be disbursed pursuant to the PACE agreement; [PL 2009, c. 591, §1 (NEW).]

B. The names and addresses of the current owners of the qualifying property subject to the PACE assessment; [PL 2009, c. 591, §1 (NEW).]

C. A description of the property subject to the PACE assessment, including its tax map and lot number; [PL 2009, c. 591, §1 (NEW).]

D. The duration of the PACE agreement; and [PL 2009, c. 591, §1 (NEW).]

E. The name and address of the entity filing the notice. [PL 2009, c. 591, §1 (NEW).]
[PL 2009, c. 591, §1 (NEW).]

3. Priority. Except as provided in paragraph A, the priority of a PACE mortgage created under subsection 2 is determined based on the date of filing of notice required under subsection 2 and applicable law. A PACE mortgage is not entitled to any special or senior priority.

A. If a property owner's PACE assessment payments are current, upon the refinancing, sale or transfer of the qualifying property, other than a judicial sale or foreclosure, the PACE mortgage is junior and subordinate in priority to the first mortgage used to refinance an existing mortgage or a first mortgage of a subsequent purchaser or transferee, regardless of the date of the recording of the refinanced first mortgage or the first mortgage of the subsequent purchaser or transferee. [PL 2009, c. 591, §1 (NEW).]

B. If a property owner's PACE assessment payments are delinquent, the past due assessments must be satisfied prior to or contemporaneously with the refinancing, sale or transfer of the qualifying property, other than a judicial sale or foreclosure. [PL 2009, c. 591, §1 (NEW).]
[PL 2009, c. 591, §1 (NEW).]

4. Judicial sale or foreclosure. In the event of a judicial sale or foreclosure of a property subject to a PACE mortgage, all parties with mortgages or liens on that property, including without limitation PACE mortgagees, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established by applicable law. Following a judicial sale or foreclosure, any deficiency with respect to amounts previously secured by a PACE mortgage must be satisfied from the reserve fund established under subsection 6.
[PL 2009, c. 591, §1 (NEW).]

5. Release of mortgage. A municipality shall discharge a PACE mortgage created under subsection 2 upon full payment of the amount specified in the PACE agreement. The discharge of a PACE mortgage under this subsection must be filed with the appropriate registry of deeds.
[PL 2009, c. 591, §1 (NEW).]

6. Reserve fund. The trust shall create a reserve fund to protect the trust in the event of a judicial sale or foreclosure of qualifying property subject to a PACE mortgage. The reserve fund may be funded by the trust using grant funds or interest charged on PACE mortgages. The reserve fund must be funded

at a level sufficient to offset past due balances on PACE assessments and any remaining principal balances on those assessments, as reasonably predicted based on good lending practices.
[PL 2009, c. 591, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 591, §1 (NEW).

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