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Appraisal Institute supports bill enhancing consumer protection for PACE loans

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Chicago, IL The Appraisal Institute joined more than two dozen other real estate organizations Monday in expressing support for federal legislation that would enhance consumer protection requirements for Property Assessed Clean Energy loans, known as PACE loans.

The nation's largest professional association of real estate appraisers, the Appraisal Institute signed a letter to the U.S. Senate and House sponsors of S. 838 and H.R. 1958, the Protecting Americans from Credit Entanglements Act of 2017. Other trade and professional associations signing the letter represent real estate professionals, home builders, and mortgage lenders and servicers.

PACE loans are mortgage financing and, the groups say, should be subject to federal consumer protection requirements. The bill would provide these loans the same Truth in Lending Act consumer protections required of other mortgage products, including the Consumer Financial Protection Bureau's "Ability-to-Repay" and "Know Before You Owe" rules and Home Ownership and Equity Protection Act standards.

"PACE loans are – in substance – consumer loans secured by real property and should be subject to federal consumer protection requirements, not dependent on a patchwork of limited or non-existent state/municipal laws that do not adequately protect homeowners," the letter said.

PACE loans were developed to help finance energy-efficient retrofits on real property, such as solar panels and energy-efficient appliances and windows. While PACE program specifics vary by state and municipality, these loans usually are initiated by the private companies approving contractors to make these improvements, with financing from proceeds raised by issuing municipal revenue bonds. The bonds are secured by the payments on the PACE loan obligation; the loan payments are added to the borrower's property tax bill and then paid through property tax installments – normally over 15 or 20 years. The outstanding PACE loan obligation then runs with the property (not the borrower) going forward.

"Although PACE loan obligations have all the attributes of a mortgage product, they are not subject to federal consumer protection requirements – as this alternative financing structure has been misclassified as a tax assessment rather than a loan," the letter said. "Consequently, a standardized, comprehensive disclosure framework does not exist for PACE loans. Moreover, there are no requirements for an assessment of a borrower's income, credit history, outstanding credit obligations, or expected monthly payments in connection with PACE products. Instead, PACE

financing today is often based on a borrower's equity in their property and their mortgage and property tax payment history, rather than on their true ability to repay their financial debt.”

The real estate groups addressed their letter to the bills' sponsors: Sens. Tom Cotton, R-Ark., John Boozman, R-Ark., and Marco Rubio, R-Fla., and Reps. Brad Sherman, D-Calif., and Edward Royce, R-Calif.

S. 838 was referred to the Committee on Banking, Housing, and Urban Affairs on April 5. H.R. 1958 was referred to the House Committee on Financial Services on April 5.

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