Multifamily Mortgage Business Lender Letter 13-09

November 14, 2013

To: Multifamily Lenders

From: Rob Levin, Vice President and Chief Underwriter for Conventional Business, Multifamily Credit Risk Management

Subject: Lender Letter 13-09 | Multifamily Property Assessed Clean Energy (PACE) Programs

HIGHLIGHTS

This Lender Letter is provided as a reminder of the Fannie Mae Multifamily policy prohibiting first-lien Property Assessed Clean Energy (PACE) Programs on Properties securing Multifamily Mortgage Loans.

Introduction

Property Assessed Clean Energy (“PACE”) programs permit local governments to provide financing for energy-related improvements to properties. A feature of most PACE programs is that the PACE obligations are treated as an assessment levied and collected in the same manner and having the same priority as local real estate taxes. As such, the assessment from a PACE program can take priority over the existing lien of the Security Instrument securing a Mortgage Loan. A default by the Borrower under a PACE program could expose the Lender and Fannie Mae to potential financial loss.

Fannie Mae Requirements

Part IIIA, Section 306 of the Multifamily Selling and Servicing Guide (the “Guide”), provides, in part:

Except as provided in this Section, the Property must be free and clear of all encumbrances and Liens that have priority over the Lien of the Security Instrument that secures the Mortgage Loan (other than cable and laundry leases as described in this Chapter). No rights may exist that could give priority to any Lien over the Lien of the Security Instrument, except for real estate taxes and special assessments that are shown in the title policy as Liens not yet due and payable.

If a Lender is underwriting a new Mortgage Loan or a new Supplemental Mortgage Loan, please note that:

- Properties that are subject to first-lien PACE programs are not eligible for purchase by Fannie Mae.
- In states with subordinate-lien PACE programs, the PACE program is not prohibited if it otherwise complies with Fannie Mae’s requirements regarding second liens.
For existing Mortgage Loans, Servicers should note the following regarding first-lien PACE programs:

- In states with first-lien PACE programs, the Servicer must notify Fannie Mae immediately upon becoming aware of any Mortgage Loan subject to or under application for a PACE program. Servicers should be prepared to accelerate the Security Instrument as required by Fannie Mae.

- If the Servicer becomes aware of any national, state, or county-wide proposed or active PACE program that may affect multiple Mortgage Loans, the Servicer should also immediately contact Fannie Mae.

- In states with first-lien PACE programs that require the local governing authority to obtain the consent of the holder of an existing security instrument (such as Texas), Servicers are required to withhold their consent to any PACE program or to a PACE program lien on Property secured by a Mortgage Loan.

**Available Fannie Mae Energy and Water Efficiency Financing Solutions**

Although Properties that are subject to first-lien PACE programs are not eligible for purchase, Fannie Mae has available alternative financing solutions to assist a Borrower in implementing energy and water efficiency measures.

**Questions**

If you have any questions regarding Multifamily PACE Programs or are seeking alternative financing solutions to assist a Borrower in implementing energy and water efficiency measures, please contact your Fannie Mae Deal Team representative, or Donna Varner at 202-752-4998 or donna.varner@fanniemae.com.