

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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PACE CONSUMER PROTECTION

While not directly related to mortgage lending, consumer protections for homeowners who finance energy efficient improvements, from time to time give rise to collateral issues to the origination and servicing of a loan. We therefore viewed with interest California Governor Jerry Brown' signature of AB 1284. This legislation provides extensive protection for California home owners who finance improvements through the Property Assessed Clean Energy or "PACE" Program.

The licensing requirements and enforcement of this program will be administered by the California Department of Business oversight ("DBO")

In its announcement of the program DBO summarizes the legislation as follows:

- ✚ Requires PACE program administrators (the dozen or so companies that arrange PACE financing) to be licensed by the DBO.
- ✚ Requires PACE program administrators to supervise PACE solicitors and solicitor agents.

- ✚ Authorizes the DBO to conduct investigations and examinations, and bring enforcement actions – including suspensions or banishments from the industry – against PACE administrators, solicitors and solicitor agents.
- ✚ Requires program administrators to determine that a property owner has a reasonable ability to pay the annual obligations of a PACE contract.
- ✚ Prohibits program administrators from making materially false or misleading statements or representations to a property owner about the terms or conditions of a PACE contract.
- ✚ Requires PACE solicitors and solicitor agents to be licensed by, or registered with, the Contractors State Licensing Board, unless otherwise exempt.
- ✚ Prohibits PACE solicitors and solicitor agents from offering a PACE contract that omits terms, conditions or disclosures required by law.
- ✚ Prohibits a program administrator from approving an assessment contract if a property has outstanding liens of more than \$1,000, if the property owner has been subject to a bankruptcy hearing in the past seven years or if the property owner is behind on his or her mortgage payments.

Most of the consumer protections required of PACE program administrators, solicitors and solicitor agents take effect on April 1, 2018. The licensing and DBO regulatory authority take effect on Jan. 1, 2019.

ABOUT ALT & ASSOCIATES

Attorneys at Law

Alt & Associates publishes the *Lenders Update* via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their business operations. Legal counsel provided to the mortgage industry includes, but is not limited to:

- **Regulatory assistance, both state and federal**
- **Compliance issues**
- **Operational advice**
- **Transactional issues**
- **Preparation or review of agreements such as Loan Officer Compensation contracts etc.**
- **Litigation**

You may direct any questions or comments directly to:

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