

DISCUSSION:

Assembly Bill 811 was signed into law in 2008 to enable property tax assessment financing for the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property. On July 6, 2010, the FHFA issued a statement that PACE participation violates mortgage contracts and would be considered an act of default by the mortgagee. Lawsuits were filed in California, Florida, and New York regarding the FHFA ruling. A 9th Circuit Judge ruled that FHFA had violated the Administrative Procedures Act and required a public rulemaking process on PACE.

FHFA proposed a rule on June 15, 2012 whereby it said it would consider a pace insurance or reserve fund as a “risk mitigation alternative” against losses to primary mortgage holders. On March 29, 2013, a 9th Circuit Court of Appeals overturned the judge’s ruling and said that FHFA had acted as a “conservator” and not as a “regulator” and dismissed the case. FHFA was specifically asked to comment on the California legislation, but did not respond. Therefore, these programs are proceeding with caution, with adequate disclosure to applicants as to the regulatory risk being undertaken.

In an effort to overcome regulatory concerns, Governor Brown and the Legislature set aside \$10 million to fund a PACE reserve program, which became operational in the second week of March, to thwart adversarial action by the Federal Housing Finance Agency (“FHFA”) regarding PACE borrowings. As a result, numerous firms have begun ramping up to provide PACE lending in Monterey County and have made application for their programs to be covered by the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) PACE reserve. This California Home Energy Retrofit Opportunity (“HERO”) Program is one of those programs.

The HERO Program launched in Riverside County in late 2012 and has approved over \$768 million in applications and has funded over \$191 million in projects. Renovate America, Inc., located in San Diego, is the program administrator, responsible for marketing, applications, vendor approval, project approval, project completion, and providing the County with a list of parcels, with amounts, to be added to the property tax rolls each year. The County, through the normal tax billing, collection, and distribution process will forward collected assessments to the paying agent along with the normal tax distributions done in December and April.

Participation by property owners is 100% voluntary and the County incurs no liability or obligation by adopting this program. The County will receive its customary charges for placement and collection of assessments

OTHER AGENCY INVOLVEMENT:

The Alternative Energy and Efficiency Committee has approved this action.

FINANCING:

There is no negative fiscal impact to the County incurred as a result of this program.

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Attachments:

Resolution