



1700 G Street NW, Washington, DC 20552

May 1, 2023

# Unofficial Redline of the Residential Property Assessed Clean Energy (PACE) Financing Proposed Rule

On May 1, 2023, the Consumer Financial Protection Bureau (CFPB) issued a proposed rule to implement section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which directs the Bureau to prescribe ability-to-repay rules for PACE financing and to apply the civil liability provisions of the Truth in Lending Act (TILA) for violations. The CFPB also proposed to address how TILA applies to PACE transactions to account for the unique nature of PACE financing.

The CFPB is releasing this unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that this proposed rule would make to Regulation Z's regulatory text and commentary.

The underlying (unmarked) text in this document reflects the existing text of the relevant provisions of Regulation Z and its commentary that are impacted by the proposed rule. The changes that the proposed rule makes to Regulation Z and its commentary are marked in **red**.

This redline is not a substitute for reviewing Regulation Z, its commentary, or the proposed rule. If any conflicts exist between this redline and the text of Regulation Z, its commentary, or the proposed rule, the documents published in the *Federal Register* are the controlling documents.

## **PART 1026—TRUTH IN LENDING ACT (REGULATION Z)**

\* \* \* \*

### **Subpart E – Special Rules for Certain Home Mortgage Transactions**

\* \* \* \*

#### **§ 1026.35 Requirements for higher-priced mortgage loans.**

\* \* \* \*

(b) *Escrow accounts*—(1) \*

(2) *Exemptions*. Notwithstanding paragraph (b)(1) of this section:

(i) An escrow account need not be established for:

\* \* \* \*

(E) A PACE transaction, as defined in § 1026.43(b)(15).

\* \* \* \*

#### **§ 1026.37 Content of disclosures for certain mortgage transactions (Loan Estimate).**

\* \* \* \*

(p) *PACE transactions*. For PACE transactions as defined in § 1026.43(b)(15), the creditor must comply with the requirements of this section with the following modifications:

(1) The creditor shall not disclose the information in paragraph (c)(2)(iii) of this section.

(2) *Taxes, insurance, and assessments*. (i) In lieu of the information required by paragraph (c)(4)(iv), the creditor shall disclose a statement of whether the amount disclosed pursuant to paragraph (c)(4)(ii) of this section includes payments for the

PACE transaction, labeled “PACE Payment”; payments for other property taxes, labeled “Property Taxes (not including PACE loan)”; amounts identified in § 1026.4(b)(8); and other amounts described in paragraph (c)(4)(ii) of this section, along with a description of any such other amounts;

(ii) In lieu of the information required by paragraph (c)(4)(v) and (vi), a statement that the PACE transaction, described as a “PACE loan,” will be part of the property tax payment and a statement directing the consumer, if the consumer has a pre-existing mortgage with an escrow account, to contact the consumer’s mortgage servicer for what the consumer will owe and when.

(3) Contact information. If the PACE company as defined in 12 CFR 1026.43(b)(14) is not otherwise disclosed pursuant to paragraphs (k)(1) through (3) of this section, the creditor shall disclose the name, NMLSR ID (labeled “NMLS ID/License ID”), email address, and telephone number of the PACE company (labeled “PACE Company”). In the event the PACE company has not been assigned an NMLSR ID, the creditor shall disclose the license number or other unique identifier issued by the applicable jurisdiction or regulating body with which the PACE company is licensed and/or registered, with the abbreviation for the State of the applicable jurisdiction or regulatory body stated before the word “License” in the label, if any.

(4) Assumption. In lieu of the statement required by paragraph (m)(2) of this section, a statement that, if the consumer sells the property, the buyer or the buyer’s mortgage lender may require the consumer to pay off the PACE transaction, using the term “PACE loan” as a condition of the sale, labeled “Selling the Property.”

(5) Late Payment. In lieu of the statement required by paragraph (m)(4) of this section:

(i) A statement detailing any charge specific to the transaction that may be imposed for a late payment, stated as a dollar amount or percentage charge of the late payment amount, and the number of days that a payment must be late to trigger the late payment fee, labeled “Late payment,” and

(ii) For any charge that is not specific to the transaction:

(A) A statement that, if the consumer’s property tax payment is late, the consumer may be subject to penalties and late fees established by the consumer’s property tax collector, and directing the consumer to contact the consumer’s property tax collector for more information, or

(B) A statement describing any charges that may result from property tax delinquency that are not specific to the PACE transaction. The statement may include dollar amounts or percentage charges and the number of days that a payment must be late to trigger the late payment fee.

(6) Servicing. In lieu of the statement required by paragraph (m)(6) of this section, a statement that the consumer will pay the PACE transaction, using the term “PACE loan,” as part of the consumer’s property tax payment, and a statement directing the consumer, if the consumer has a mortgage escrow account that includes the consumer’s property tax payments, to contact the consumer’s mortgage servicer for what the consumer will owe and when.

(7) Exceptions.

(i) Unit-period. Wherever form H-24(H) of appendix H uses “annual” to describe the frequency of any payments or the applicable unit-period, the creditor shall use the appropriate term to reflect the transaction's terms, such as semi-annual payments.

(ii) PACE nomenclature. Wherever this section requires disclosure of the word “PACE” or form H-24(H) of appendix H to this part uses the term “PACE,” the creditor may substitute the name of a specific PACE financing program that will be recognizable to the consumer.

### **§ 1026.38 Content of disclosures for certain mortgage transactions (Closing Disclosure).**

\* \* \* \*

(u) PACE transactions. For PACE transactions as defined in § 1026.43(b)(15), the creditor must comply with the requirements of this section with the following modifications:

(1) Transaction information. In addition to the other disclosures required under paragraph (a)(4) of this section under the heading “Transaction Information,” the creditor shall disclose the name of any PACE company involved in the transaction, labeled “PACE Company.” For purposes of this paragraph (u)(1), “PACE company” has the same meaning as in § 1026.43(b)(14).

(2) Projected payments. The creditor shall disclose the information required by paragraph (c)(1) of this section as modified by § 1026.37(p)(1) through (2) and shall omit the information required by paragraph (c)(2).

(3) Assumption. In lieu of the information required by paragraph (l)(1) of this section, the creditor shall use the subheading “Selling the Property” and disclose the information required by § 1026.37(p)(4).

(4) Late payment. In lieu of the information required by paragraph (l)(3) of this section, under the subheading “Late Payment,” the creditor shall disclose the information required by § 1026.37(p)(5).

(5) Partial payment policy. In lieu of the information required by paragraph (l)(5) of the section, under the subheading “Partial Payments,” the creditor shall disclose a statement directing the consumer to contact the mortgage servicer about the partial payment policy for the account if the consumer has a mortgage escrow account for property taxes and to contact the tax collector about the tax collector’s partial payment policy if the consumer pays property taxes directly to the tax authority.

(6) Escrow account. The creditor shall not disclose the information required by paragraph (l)(7) of this section.

(7) Liability after foreclosure. The creditor shall not disclose the information required by paragraph (p)(3) of this section. If the consumer may be responsible for any deficiency after foreclosure or tax sale under applicable State law, the creditor shall instead disclose a brief statement that the consumer may have such responsibility, a description of any applicable protections provided under State anti-deficiency laws, and a statement that the consumer should consult an attorney for additional information, under the subheading “Liability after Foreclosure or Tax Sale.”

(8) Contact information. If the PACE company is not otherwise disclosed pursuant to paragraph (r) of this section, the creditor shall disclose the information

described in paragraph (r)(1)-(7) of this section for the PACE company, as defined in § 1026.43(b)(14)(under the subheading “PACE Company”).

(9) Exceptions.

(i) Unit-period. Wherever form H-25(K) of appendix H uses “annual” to describe the frequency of any payments or the applicable unit-period, the creditor shall use the appropriate term to reflect the transaction's terms, such semi-annual payments.

(ii) PACE nomenclature. Wherever this section requires disclosure of the word “PACE” or form H-25(K) of appendix H to this part uses the term “PACE,” the creditor may substitute the name of a specific PACE financing program that will be recognizable to the consumer.

**§ 1026.41 Periodic statements for residential mortgage loans.**

\* \* \* \*

(e) Exemptions–

\* \* \*

(7) PACE transactions. PACE transactions, as defined in § 1026.43(b)(15), are exempt from the requirements of this section.

\* \* \* \*

**§ 1026.43 Minimum standards for transactions secured by a dwelling.**

\* \* \* \*

(b) Definitions. For purposes of this section:

\* \* \* \*

(14) PACE company means a person, other than a natural person or a government unit, that administers the program through which a consumer applies for or obtains a PACE transaction.

(15) PACE transaction means financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer.

\* \* \* \*

(i) PACE transactions.

(1) For PACE transactions extended to consumers who pay their property taxes through an escrow account, in making the repayment ability determination required under paragraphs (c)(1) and (c)(2) of this section, a creditor must consider the factors identified in (c)(2)(i) through (viii) and also must consider any monthly payments that the creditor knows or has reason to know the consumer will have to pay into any escrow account as a result of the PACE transaction that are in excess of the monthly payment amount considered under paragraph (c)(2)(iii) of this section, taking into account:

(i) The cushion of one-sixth (1/6) of the estimated total annual payments attributable to the PACE transaction from the escrow account that the servicer may charge under 12 CFR 1024.17(c)(1), unless the creditor reasonably expects that no such cushion will be required or unless the creditor reasonably expects that a different cushion amount will be required, in which case the creditor must use that amount; and

(ii) If the timing for when the servicer is expected to learn of the PACE transaction is likely to result in a shortage or deficiency in the consumer's escrow account, the expected effect of any such shortage or deficiency on the monthly payment that the consumer will be required to pay into the consumer's escrow account.

(2) Notwithstanding paragraphs (e)(2), (e)(5), (e)(7), or (f) of this section, a PACE transaction is not a qualified mortgage as defined in this section.

(3) For a PACE transaction, the requirements of this section apply to both the creditor and any PACE company that is substantially involved in making the credit decision. A PACE company is substantially involved in making the credit decision if it, as to a particular consumer, makes the credit decision, makes a recommendation as to whether to extend credit, or applies criteria used in making the credit decision. In the case of any failure by any such PACE company to comply with any requirement imposed under this section, section 130 of the Truth in Lending Act, 15 U.S.C. 1640, shall be applied with respect to any such failure by substituting “PACE company” for “creditor” each place such term appears in each such subsection.

\* \* \* \* \*

## **Appendix H to Part 1026—Closed-End Model Forms and Clauses**

\* \* \* \* \*

## H-24(H) Mortgage Loan Transaction Loan Estimate—Model Form for PACE Transactions

*Save this Loan Estimate to compare with your Closing Disclosure.*

### **Loan Estimate**

DATE ISSUED  
APPLICANTS

LOAN TERM  
PURPOSE  
PRODUCT  
LOAN TYPE     Conventional     FHA     VA     \_\_\_\_\_  
LOAN ID # \_\_\_\_\_  
RATE LOCK     NO     YES, until \_\_\_\_\_  
*Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on \_\_\_\_\_*

PROPERTY  
EST. PROP. VALUE

#### **Loan Terms**

#### **Can this amount increase after closing?**

Loan Amount	
Interest Rate	
Annual Principal & Interest <i>See Projected Payments below for your Estimated Total Annual Payment</i>	
	<b>Does the loan have these features?</b>
Prepayment Penalty	
Balloon Payment	

#### **Projected Payments**

Payment Calculation	
Principal & Interest	
Mortgage Insurance	
Estimated Total Annual Payment <i>PACE payments will be part of your property tax payment</i>	<p><b>This estimate includes</b></p> <p><input type="checkbox"/> PACE Payment  <input type="checkbox"/> Property Taxes (not including PACE loan)  <input type="checkbox"/> Homeowner's Insurance  <input type="checkbox"/> Other:</p> <p><i>Your PACE loan will be part of your property tax payment. If you have a mortgage with an escrow account, contact your mortgage servicer for what you will owe and when.</i></p>

#### **Costs at Closing**

Estimated Closing Costs	Includes _____ in Loan Costs + _____ in Other Costs - _____ in Lender Credits. See details on page 2.
Estimated Cash to Close	Includes Closing Costs. See Calculating Cash to Close on page 2 for details <input type="checkbox"/> From <input type="checkbox"/> To Borrower

Visit [www.consumerfinance.gov/mortgage-estimate](http://www.consumerfinance.gov/mortgage-estimate) for general information and tools.

## Closing Cost Details

Loan Costs		Other Costs	
<b>A. Origination Charges</b> % of Loan Amount (Points)		<b>E. Taxes and Other Government Fees</b> Recording Fees and Other Taxes Transfer Taxes	
<b>B. Services You Cannot Shop For</b>		<b>F. Prepays</b> Homeowner's Insurance Premium ( ___ months) Mortgage Insurance Premium ( ___ months) Prepaid Interest ( ___ per day for ___ days @ ___ ) Property Taxes ( ___ months)	
<b>C. Services You Can Shop For</b>		<b>G. Initial Escrow Payment at Closing</b> Homeowner's Insurance                   per month for     mo. Mortgage Insurance                   per month for     mo. Property Taxes                       per month for     mo.	
<b>D. TOTAL LOAN COSTS (A + B + C)</b>		<b>H. Other</b>	
		<b>I. TOTAL OTHER COSTS (E + F + G + H)</b>	
		<b>J. TOTAL CLOSING COSTS</b> D + I Lender Credits	
<b>Calculating Cash to Close</b>			
Loan Amount _____			
Total Closing Costs (J) _____			
Estimated Total Payoffs and Payments _____			
<b>Estimated Cash to Close</b> <input type="checkbox"/> <b>From</b> <input type="checkbox"/> <b>To Borrower</b>			
Estimated Closing Costs Financed (Paid from your Loan Amount) _____			



# H-25(K) Mortgage Loan Transaction Closing Disclosure—Model Form for PACE Transactions

## Closing Disclosure

*This form is a statement of final loan terms and closing costs. Compare this document with your Loan Estimate.*

<b>Closing Information</b> Date Issued Closing Date Disbursement Date Settlement Agent File # Property Estimated Prop. Value			<b>Transaction Information</b> Borrower Lender PACE Company	<b>Loan Information</b> Loan Term Purpose Product Loan Type <input type="checkbox"/> Conventional <input type="checkbox"/> FHA <input type="checkbox"/> VA <input type="checkbox"/> Loan ID # _____ MIC #
<b>Loan Terms</b>		<b>Can this amount increase after closing?</b>		
Loan Amount				
Interest Rate				
<b>Annual Principal &amp; Interest</b> <small>See Projected Payments below for your Estimated Total Annual Payment</small>				
<b>Does the loan have these features?</b>				
Prepayment Penalty				
Balloon Payment				
<b>Projected Payments</b>				
<b>Payment Calculation</b>				
Principal & Interest				
Mortgage Insurance				
<b>Estimated Total Annual Payment</b>				
<b>Estimated Taxes, Insurance &amp; Assessments</b> <small>Amount can increase over time</small>	<b>This estimate includes</b> <input type="checkbox"/> PACE Payment <input type="checkbox"/> Property Taxes (not including PACE loan) <input type="checkbox"/> Homeowner's Insurance <input type="checkbox"/> Other: <small>Your PACE loan will be part of your property tax payment. If you have a mortgage with an escrow account, contact your mortgage servicer for what you will owe and when.</small>			
<b>Costs at Closing</b>				
<b>Closing Costs</b>	Includes _____ in Loan Costs + _____ in Lender Credits. See details on page 2.			in Other Costs – _____
<b>Cash to Close</b>	Includes Closing Costs. See Calculating Cash to Close on page 3 for details			<input type="checkbox"/> From <input type="checkbox"/> To Borrower

CLOSING DISCLOSURE

PAGE 1 OF 5 • LOAN ID #

## Closing Cost Details

Loan Costs	Borrower-Paid At Closing	Borrower-Paid Before Closing	Paid by Others
<b>A. Origination Charges</b>			
01 % of Loan Amount (Points)			
02			
03			
04			
05			
06			
07			
08			
<b>B. Services Borrower Did Not Shop For</b>			
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			
<b>C. Services Borrower Did Shop For</b>			
01			
02			
03			
04			
05			
06			
07			
08			
<b>D. TOTAL LOAN COSTS (Borrower-Paid)</b>			
Loan Costs Subtotals (A + B + C)			
<b>Other Costs</b>			
<b>E. Taxes and Other Government Fees</b>			
01 Recording Fees Deed: Mortgage:			
02			
<b>F. Prepaids</b>			
01 Homeowner's Insurance Premium ( mo.)			
02 Mortgage Insurance Premium ( mo.)			
03 Prepaid Interest ( per day from to )			
04 Property Taxes ( mo.)			
05			
<b>G. Initial Escrow Payment at Closing</b>			
01 Homeowner's Insurance per month for mo.			
02 Mortgage Insurance per month for mo.			
03 Property Taxes per month for mo.			
04			
05			
06			
07			
08 Aggregate Adjustment			
<b>H. Other</b>			
01			
02			
03			
04			
05			
06			
07			
08			
<b>I. TOTAL OTHER COSTS (Borrower-Paid)</b>			
Other Costs Subtotals (E + F + G + H)			
<b>J. TOTAL CLOSING COSTS (Borrower-Paid)</b>			
Closing Costs Subtotals (D + I)			
Lender Credits			

CLOSING DISCLOSURE

PAGE 2 OF 5 • LOAN ID #

<b>Payoffs and Payments</b>		<b>Use this table to see a summary of your payoffs and payments to others from your loan amount.</b>
TO		AMOUNT
01		
02		
03		
04		
05		
06		
07		
08		
09		
10		
11		
12		
13		
14		
15		
<b>K. TOTAL PAYOFFS AND PAYMENTS</b>		

<b>Calculating Cash to Close</b>		<b>Use this table to see what has changed from your Loan Estimate.</b>		
		Loan Estimate	Final	Did this change?
Loan Amount				
Total Closing Costs (J)				
Closing Costs Paid Before Closing				
Total Payoffs and Payments (K)				
<b>Cash to Close</b>	<input type="checkbox"/> From <input type="checkbox"/> To Borrower	<input type="checkbox"/> From <input type="checkbox"/> To Borrowee	Closing Costs Financed (Paid from your Loan Amount)	

## **Additional Information About This Loan**

---

### **Loan Disclosures**

#### **Selling the Property**

If you sell the property, the buyer or their mortgage lender may require you to pay off the balance of this obligation as a condition of sale.

#### **Demand Feature**

Your loan

- has a demand feature, which permits your lender to require early repayment of the loan. You should review your note for details.
- does not have a demand feature.

#### **Late Payment**

If your property tax payment is late, you may be subject to penalties and late fees established by your property tax collector.

#### **Negative Amortization (Increase in Loan Amount)**

Under your loan terms, you

- are scheduled to make monthly payments that do not pay all of the interest due that month. As a result, your loan amount will increase (negatively amortize), and your loan amount will likely become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- may have monthly payments that do not pay all of the interest due that month. If you do, your loan amount will increase (negatively amortize), and, as a result, your loan amount may become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- do not have a negative amortization feature.

#### **Partial Payment**

If you pay your property taxes directly to your tax collector, contact your tax collector about its partial payment policy. If you have a mortgage escrow account for your property taxes, contact your mortgage servicer about the partial payment policy for the account.

#### **Security Interest**

You are granting a security interest in \_\_\_\_\_

You may lose this property if you do not make your payments or satisfy other obligations for this loan.

Loan Calculations		Other Disclosures
<b>Total of Payments.</b> Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled.		
<b>Finance Charge.</b> The dollar amount the loan will cost you.		
<b>Amount Financed.</b> The loan amount available after paying your upfront finance charge.		
<b>Annual Percentage Rate (APR).</b> Your costs over the loan term expressed as a rate. This is not your interest rate.		
<b>Total Interest Percentage (TIP).</b> The total amount of interest that you will pay over the loan term as a percentage of your loan amount.		



**Questions?** If you have questions about the loan terms and costs on this form, use the contact information below. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at [www.consumerfinance.gov/mortgage-closing](http://www.consumerfinance.gov/mortgage-closing)

Contact Information					
Name	Lender	Mortgage Broker	Settlement Agent	PACE Company	
<b>Address</b>					
<b>NMLS ID</b>					
<b>License ID</b>					
<b>Contact</b>					
<b>Contact NMLS ID</b>					
<b>Contact License ID</b>					
<b>Email</b>					
<b>Phone</b>					

#### Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature

Date

Co-Applicant Signature

Date

\* \* \* \*

## **Supplement I to Part 1026—Official Interpretations**

\* \* \* \*

### *Section 1026.2—Definitions and Rules of Construction*

\* \* \* \*

#### *2(a)(14) Credit*

1. *Exclusions.* The following situations are not considered credit for purposes of the regulation:

i. \* \* \*

ii. Involuntary Tax liens, involuntary tax assessments, court judgments, and court approvals of reaffirmation of debts in bankruptcy. However, third-party financing of such obligations (for example, a bank loan obtained to pay off an involuntary tax lien) is credit for purposes of the regulation.

\* \* \* \*

### *Section 1026.37—Content of disclosures for certain mortgage transactions (Loan Estimate).*

\* \* \* \*

#### 37(p) PACE transactions.

#### 37(p)(3) Contact information.

1. Section 1026.37(p)(3) requires disclosure of information about the PACE company if the PACE company is not otherwise disclosed pursuant to § 1026.37(k)(1) through (3). For example, if a PACE company is a mortgage broker as defined in § 1026.36(a)(2), then the name of the PACE company is disclosed as a mortgage broker

and the field for PACE company may be left blank. See comments 1026.37(k) –1 and –2 for more guidance.

*37(p)(5) Late payment.*

1. For purposes of § 1026.37(p)(5), a charge is specific to the PACE transaction if the property tax collector does not impose the same charges for general property tax delinquencies.

*37(p)(7) Form of disclosures – Exceptions.*

*37(p)(7)(ii) PACE nomenclature.*

1. Wherever § 1026.37 requires disclosure of the word “PACE” or form H–24(H) in appendix H uses the term “PACE,” § 1026.37(p)(7)(ii) permits a creditor to substitute an alternative name for the specific PACE financing program that will be recognizable to the consumer. For example, if the name XYZ Financing is used in marketing and branding a PACE transaction to the consumer, such that XYZ Financing will be recognizable to the consumer, the creditor may substitute the name XYZ Financing for PACE on the Loan Estimate.

*Section 1026.38—Content of disclosures for certain mortgage transactions (Closing Disclosure).*

\* \* \* \*

*38(u) – PACE transactions*

*38(u)(9) Exceptions.*

*38(u)(9)(ii) PACE nomenclature.*

1. Wherever § 1026.38 requires disclosure of the word “PACE” or form H–25(K) in appendix H uses the term “PACE,” § 1026.38(u)(9)(ii) permits a creditor to substitute

an alternative name for the specific PACE financing program that will be recognizable to the consumer. For example, if the name XYZ Financing is used in marketing and branding a PACE transaction to the consumer, such that XYZ Financing will be recognizable to the consumer, the creditor may substitute the name XYZ Financing for PACE on the Closing Disclosure.

\* \* \* \*

*Section 1026.43—Minimum standards for transactions secured by a dwelling*

\* \* \* \*

*43(b)(8) Mortgage-related obligations.*

\* \* \* \*

*2. Property taxes.* Section 1026.43(b)(8) includes property taxes in the evaluation of mortgage-related obligations. Obligations that are related to the ownership or use of real property and paid to a taxing authority, whether on a monthly, quarterly, annual, or other basis, are property taxes for purposes of § 1026.43(b)(8). Section 1026.43(b)(8) includes obligations that are equivalent to property taxes, even if such obligations are not denominated as “taxes.” For example, governments may establish or allow independent districts with the authority to impose levies on properties within the district to fund a special purpose, such as a local development bond district, water district, or other public purpose. These levies may be referred to as taxes, assessments, surcharges, or by some other name. For purposes of § 1026.43(b)(8), these are property taxes and are included in the determination of mortgage-related obligations. Any payments for pre-existing PACE transactions are considered property taxes for purposes of § 1026.43(b)(8).

\* \* \* \*

43(b)(14) PACE company.

1. Indicia of whether a person administers a PACE financing program for purposes of § 1026.43(b)(14) include, for example, marketing PACE financing to consumers, developing or implementing policies and procedures for the origination process, being substantially involved in making a credit decision, or extending an offer to the consumer.

\* \* \* \*

43(c) Repayment ability.

\* \* \* \*

43(c)(2) Basis for determination.

\* \* \* \*

Paragraph 43(c)(2)(iv).

\* \* \* \*

4. Knows or has reason to know—PACE transaction. In addition to the guidance provided under comment 43(c)(2)(iv)—2, a creditor originating a PACE transaction knows or has reason to know of any simultaneous loans that are PACE transactions if the transactions are included in any existing database or registry of PACE transactions that includes the geographic area in which the property is located and to which the creditor has access.

\* \* \* \*

43(c)(3) Verification using third-party records.

\* \* \* \*

*5. Verification of mortgage-related obligations.* Creditors must make the repayment ability determination required under § 1026.43(c)(2) based on information verified from reasonably reliable records. For general guidance regarding verification see comments 43(c)(3)—1 and –2, which discuss verification using third-party records. With respect to the verification of mortgage-related obligations that are property taxes required to be considered under § 1026.43(c)(2)(v), a record is reasonably reliable if the information in the record was provided by a governmental organization, such as a taxing authority or local government. The creditor complies with § 1026.43(c)(2)(v) by relying on property taxes referenced in the title report if the source of the property tax information was a local taxing authority. A creditor that knows or has reason to know that a consumer has an existing PACE transaction does not comply with § 1026.43(c)(2)(v) by relying on information provided by a governmental organization, either directly or indirectly, if the information provided does not reflect the PACE transaction. With respect to other information in a record provided by an entity assessing charges, such as a homeowners association, the creditor complies with § 1026.43(c)(2)(v) if it relies on homeowners association billing statements provided by the seller. Records are also reasonably reliable if the information in the record was obtained from a valid and legally executed contract. For example, the creditor complies with § 1026.43(c)(2)(v) by relying on the amount of monthly ground rent referenced in the ground rent agreement currently in effect and applicable to the subject property. Records, other than those discussed above, may be reasonably reliable for purposes of § 1026.43(c)(2)(v) if the source provided the information objectively.

\* \* \* \*

## *Appendix H – Closed-End Forms and Clauses*

\* \* \* \*

### *30. Standard Loan Estimate and Closing Disclosure forms.* Forms H–24(A)

through (GH), H–25(A) through (JK), and H–28(A) through (J) are model forms for the disclosures required under §§ 1026.37 and 1026.38. However, pursuant to §§ 1026.37(o)(3) and 1026.38(t)(3), for federally related mortgage loans forms H–24(A) through (GH) and H–25(A) through (JK) are standard forms required to be used for the disclosures required under §§ 1026.37 and 1026.38, respectively.

\* \* \* \*