



## Legislation Details (With Text)

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**Type:** Agenda Item      **Status:** Department Matters

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**Title:** Chief Administrative Office recommending the Board consider the following:  
 1) Receive update on the status of AB 811 programs; and  
 2) Direct staff to delay further program implementation efforts until priority of lien status is resolved.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Fannie Mae Letter, 2. Freddie Mac Letter, 3. Attorney General Press Release & Letter, 4. News article submitted by John Knight 6-16-10

Date	Ver.	Action By	Action	Result
6/8/2010	1	Board of Supervisors	No Formal Action	

Chief Administrative Office recommending the Board consider the following:  
 1) Receive update on the status of AB 811 programs; and  
 2) Direct staff to delay further program implementation efforts until priority of lien status is resolved.

**Background:**

AB 811 (2008) authorizes cities and counties in California to designate areas within their jurisdictions in which willing private property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements. Subsequent legislation (AB 474 of 2009) expanded this authorization to allow contractual assessment financing of water efficiency improvements. Programs such as AB 811 are commonly referred to as Property Assessed Clean Energy (PACE) programs.

On April 27, 2010 the Board directed staff to investigate AB 811 programs in Sonoma and Placer counties and continue exploring the feasibility of implementing a program in the County of El Dorado. Among the first issues expressed in the Board motion was the need for a clear understanding of the priority of lien.

**Reason for Recommendation:**

On May 5, 2010 Fannie Mae and Freddie Mac issued lender and industry letters implying that these government sponsored enterprises cannot buy loans on the secondary market with PACE program first priority liens. Fannie Mae and Freddie Mac are major players in the mortgage buying market and these letters have caused a great deal of uncertainty in existing PACE programs in California and around the country.

On May 18, 2010 California Attorney General Edmund (Jerry) Brown formally requested that Federal Housing Finance Authority confirm that California's PACE programs (based on AB 811) are not in violation of Fannie Mae/Freddie Mac Uniform Security Instruments which prohibit loans that have a senior lien status to a mortgage. A copy of the Attorney General's press release and letter is attached.

Action to be taken following Board approval: Staff will continue to monitor the situation and report any new developments to the Board.

Contact: Mike Applegarth

Concurrences: