



## CaliforniaFIRST Limited Subordination Option for Homeowners

### SUMMARY

Renew Financial, through either Los Angeles County (LAC) or the California Statewide Communities Development Authority (CSCDA),<sup>1</sup> offers a contractual Limited Subordination option on CaliforniaFIRST PACE financing to help overcome objections to the presence of a PACE assessment that may prevent a prospective new mortgage lender from closing a refinance or purchase mortgage on the property.

### FREQUENTLY ASKED QUESTIONS

#### Why may a homeowner need a Limited Subordination?

A contractual Limited Subordination may be needed if a prospective mortgage lender will not agree to make the loan for a home refinance or purchase because of the existence of the PACE assessment on the property. Some mortgage lenders object to PACE assessments because without a Limited Subordination contract in place and in the event of foreclosure of the property, any unpaid PACE payments then due are paid before the lender is paid for amounts due under the mortgage.

Note: The entire remaining balance of a PACE assessment does not become due in full upon foreclosure. (Such treatment is dramatically different from conventional secured financing, where remaining balances are typically required to be paid off in full at foreclosure). Only delinquent/in arrears PACE payments are due in foreclosure.

#### How does a Limited Subordination help the homeowner?

The Limited Subordination agreement helps the homeowner by increasing the likelihood that the lender will approve the new mortgage. It increases that likelihood because the Limited Subordination reduces the first mortgage lender's perceived financial risk created by the PACE assessment. The factors that reduce the risk: 1) only the delinquent PACE payments are due, and 2) the mortgage lender must be paid in full from the funds recovered in a foreclosure sale before any of those funds can be used to pay the amounts then due on the PACE assessment.

Specifically, if the homeowner requests the Limited Subordination option, CSCDA or LAC will contractually obligate itself:

1. Not to foreclose on the property due to the homeowner's failure to make a PACE assessment payment, unless the first mortgage holder gives permission to do so; and
2. That it shall not have the right to apply proceeds from any foreclosure sale to repayment of the PACE assessment unless the mortgage lender has been paid in full for amounts due and owing under its mortgage.

#### Under what circumstances may a homeowner take advantage of the Limited Subordination option?

The Limited Subordination option is available to a homeowner with a CaliforniaFIRST PACE assessment in the following circumstances:

1. Home Sale: A homeowner is trying to sell a property and the buyer's lender refuses to complete the transaction specifically because of the presence of the PACE assessment.

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<sup>1</sup> Renew Financial is the administrator of the CaliforniaFIRST program. CSCDA is the CaliforniaFIRST program sponsor throughout California except in Los Angeles County, where the County is the Sponsor.



2. *Home Refinance*: A homeowner is trying to refinance a property and the lender refuses to complete the transaction specifically because of the presence of the PACE assessment.

**With the Limited Subordination in place, what conditions must be met for CSCDA or LAC to initiate a judicial foreclosure due to failure to pay a PACE assessment?<sup>2</sup>**

If a Limited Subordination is in place, CSCDA or LAC must have the approval of the first mortgage lender in order to initiate a judicial foreclosure proceeding due to failure to make a PACE assessment payment. Note that the County may still initiate foreclosure proceedings for failure to pay property taxes (including PACE assessment payments) as permitted by law.

**If after the Limited Subordination is executed the homeowner refinances or sells the property, resulting in a new first mortgage lender, does the Limited Subordination remain in effect?**

No. The Limited Subordination only applies to the first mortgage lender that required the Limited Subordination as a condition of refinance or purchase by a new owner.

**If after the Limited Subordination is executed the lender sells the mortgage to another bank, credit union, or entity such as Fannie Mae or Freddie Mac, does the Limited Subordination remain in effect?**

Yes. When a lender sells a mortgage to another party, the mortgage is assigned to the new owner of the mortgage, rather than terminated. The Limited Subordination terminates only if the mortgage terminates or is reconveyed to the homeowner.

**How long does it take to process a Limited Subordination request?**

Once the homeowner and lender formally request the Limited Subordination from Renew Financial, it may take up to 30 days for the Limited Subordination to be processed and become effective.

**Is the Renew Financial Limited Subordination option the outcome of the August, 2015 White House announcement regarding the Federal Housing Administration (FHA) and PACE, and the subsequent finalization in July 2016 of [FHA's position](#) (and the [Veterans Administration's position](#)) on PACE?**

No. Renew Financial began developing this Limited Subordination option for homeowners well before August, 2015.

**What do the FHA's and VA's actions mean in regards to the Limited Subordination option?**

The FHA and VA have ruled that homes with a PACE assessment are eligible for FHA or VA-backed financing so long as, in the event of foreclosure, only delinquent PACE payments are recoverable ahead of FHA or VA. Therefore, property owners whose new loans to homeowners that will be backed by either of these two agencies have no need to request Limited Subordination.

**Do lenders accept the Limited Subordination?**

Renew Financial has already received multiple requests for Limited Subordination. As of the date of this document, 77 different lenders have accepted a total of 137 limited subordination applications, with many of the major lenders represented.

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<sup>2</sup> Without the Limited Subordination, CSCDA or LAC has the right to initiate foreclosure proceedings if a homeowner has missed more than two PACE assessment payments as of October 1 of any year.