THE BOND BUYER
Regional News
Wednesday, December 30, 2015 |
as of 4:48 PM ET

Why Florida May Be the Next Big Source of PACE Bonds

NORA COLOMER
DEC 22, 2015 2:10pm ET

Property Assessed Clean Energy (PACE) loans have been available in Florida since 2010, but lending as well as securitization of these loans has lagged far behind California, largely due to a series of lawsuits challenging the program's validity.

A ruling by the Florida Supreme Court in October could change that, allowing the Sunshine State to live up to its potential for green energy projects.

Under the Florida PACE law, local governments can issue revenue bonds to provide financing for residents and businesses that agree to make energy conservation, renewable energy, and wind resistance improvements, and have non-ad valorem assessments placed on their property tax bills to repay the debt.

The lawsuits argued that the financing agreements for the PACE programs included the unlawful use of judicial foreclosure if the assessments would wrongfully allow PACE administrators to use the courts to foreclose on delinquent borrowers.

Florida is no California. It is neither as populous nor as wealthy, nor does it have the same laws promoting energy efficiency. And while it gets plenty of sunshine, solar panels are far less popular than they are in the Golden State. The biggest use of PACE financing in Florida, by far, is to make houses and other buildings hurricane-proof.

Ygrene Energy Fund has closed about $55 million in projects in Florida to date which represents $110 million in energy savings, according to Stacey Lawson, the company's president and CEO. The company administers programs for Clean Energy Green Corridor District, which includes Miami, South Miami, Pinecrest, Palmetto Bay, and Miami Shores, communities that total about 650,000 people.

Ygrene partners with municipalities and helps them set up PACE programs and they provide financing and administration for the program. It has $150 million warehouse facility which allows it to provide capital to fund the upgrade for the property owner. The tax lien is placed on the property tax bill and the homeowner pays that back over 20 years. Ygrene gets the 20-year cash streams from the property taxes. Once it collects a large enough warehouse of projects it securitizes them.

The company completed its first securitization of Florida PACE bonds in July 2015. The transaction privately placed $150 million of bonds backed by both California and Florida PACE assessments; as well a mixture of residential and commercial PACE (though a significant majority of the assessments were residential). Kroll Bond Rating Agency assigned 'AA' ratings to the class A notes, which were privately placed with an unnamed insurance company. It was the first rated securitization to include multi-state PACE.

Lawson expects the program to take off in 2016. "The districts that we have opened are still relatively contained to Miami-Dade and Broward counties, but now that we have the court ruling in favor of PACE we are seeing fast expansion of municipal and county interest," she said. "Going into 2016 we will see the trend of expansion in terms of service territory really take off".

The Florida ruling cleared up a clause in documents that allowed for judicial foreclosure, which is a mortgage remedy, as a recovery remedy for PACE administrators. According to Jonathan Schaefer, Program Manager Florida PACE Funding Agency, "the insertion of judicial foreclosure was never in the spirit of the PACE legislation law."

The ruling essentially declares that judicial foreclosure should not be part of PACE and concluded that the only remedy for the investor is the uniform method of collection, which is standard way that all property taxes are repaid via.

The ruling also dismisses the Florida Banker's Association claim that argued that the PACE law is unconstitutional because it gives the special assessment on a tax bill a lien that supersedes the payment of a mortgage on the property. "The court basically decided that the challenge was not valid – the Florida Bankers did not have standing, nor evidence that that they had been injured by PACE," said Lawson. "That was a big win for PACE in Florida and PACE in general because it indicated that there was court support for PACE."

The Supreme Court ruling probably means the matter is resolved for now, said Schaefer. "At this point in time legislation is clear and cities and counties that were sidelined because of the lawsuits are certainly going to be looking to do PACE," he said.

Florida's PACE legislation allows for PACE financing on renewable energy improvements, which is the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources: hydrogen, solar energy, geothermal energy, bioenergy, and wind energy.

Unlike California's PACE law, Florida's PACE statute also permits improvements to buildings that make them more resistant to damage from wind and severe weather events.

The state has seen a rise in sea level (sea levels in South Florida have risen nine inches over the past century and by the end of the century, scientists predict sea levels could rise another 6 feet from climate change, according to clearpath.org) and severe storms have contributed to increasing floods in Florida counties.

It is therefore not surprising that public programs, like PACE, that help drive better protection and resiliency to homes from these risks is a very central topic of public policy now, according to Lawson.

PACE in Florida can fund projects like water barriers to prevent water intrusion or lifting the foundation of homes to protect homes against sea level rise. PACE can also finance a whole range of projects related to hurricane resiliency – such as storm windows, foundation strengthening and roof strengthening. "In terms of other measures on energy side, Florida homeowners are very consistent with what we see in CA – popular measures are heating & air conditioning, rooftop solar and energy efficient roofing," said Lawson. "But I would estimate that hurricane resiliency is about 40% the project volume in Florida."

California on the other hand is largely driven by renewables mostly because of the state's mandate for clean energy.

Cisco DeVries, president of Renew Financial, the financing company behind CaliforniaFirst, a PACE financing program for residential and commercial properties, says that the potential for Florida is big, though maybe not California big. He is currently in the state setting up shop. On Sept. 29, Renew announced that it acquired ECOCity partners, a leading PACE program administrator based in St. Petersburg in Florida that serves local governments from South Florida to the Panhandle.

CaliforniaFirst provides financing for the purpose of renewable energy, efficiency upgrades, water management or seismic retrofit. Loans are secured by bonds, and the reimbursement is billed through the annual property tax bill. So the loan has the same seniority as the government's property taxes. The loan can have a term to up to 25 years. DeVries said it's a similar set up in Florida.

In the past year, Renew has completed financing for over $68 million in energy efficiency projects, expanded market coverage from 30% of California to70%.

DeVries said that the Florida model is based on CaliforniaFIRST. "We expect the integration to be smooth and to greatly enhance the PACE experience in Florida very shortly, " he said. He sees potential for varied PACE lenders to fund energy upgrades on roughly 50,000 to 75,000 Florida homes per year for about $1 billion in loans annually. Projects would include some solar-panel installations but also lots of replacements for air conditioning, windows, roofs and other basics in more efficient formats.

PACE lenders could fund another $1 billion per year in energy upgrades on businesses in the Sunshine Statin Florida, especially for small- and mid-sized companies, said DeVries.

This low-risk lending structure has opened up a sizable pool of third party capital providers. The bonds benefit from their senior lien position and its treatment as a property tax that is collected through standard tax mechanism. That means that the bonds are exceptionally secure and of very high credit quality. Repayment rates are near 100% and though there is a delay in cash flows the recovery is near perfect. "The great competitive proposition of PACE is that the loan is not tied to property owner, but to the property," said Devries. "So credit score issues and property transfer issues are almost eradicated."

Renew issued its first securitization of PACE bonds on September 3. The company issued $50 million of privately placed notes backed by California PACE bonds.

Ygrene's first transaction to include Florida PACE, included loans that financed energy efficiency, renewable energy, and water conservation upgrades to both commercial and residential buildings. The loans are repaid via annual property assessments with terms of five to 30 years that are based on the property's value, not the borrower's credit score.

"The market will continue to see deals that incorporate geographic diversity as well as asset diversity, said Lawson. Ygrene is currently working on a second securitization of multistate PACE bonds.

A third player, Florida PACE Agency, is administering a program to several counties in Florida's through its statewide PACE program called E-VEST. Like, Ygrene and Renew, the Agency secured private capital to fund financing for projects. In 2013 it inked a deal for $500 million in funding through Irvine, Calif.-based Samas Capital LLC.

However, unlike other PACE administrators in the states, Schaefer said that the Florida Finding Agency doesn't need to tap the securitization market. That is because Samas' capitalization is equity so there isn't a real need to takeout the lending via a securitization.

"Other PACE administrators in the state have secured financing through a line of credit so they are in a bigger hurry to free up that capital and need to tap the securitization market as a result," said Schaefer.
