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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Investigate and Design Clean Energy Financing Options for Electricity and Natural Gas Customers.	Rulemaking 20-08-022

OPENING COMMENTS OF THE CALIFORNIA LOW-INCOME CONSUMER COALITION TO ASSIGNED COMMISSIONER'S RULING SEEKING PARTY FEEDBACK ON TRACK 1 ISSUES RELATED TO CALIFORNIA HUB FOR ENERGY EFFICIENCY FINANCING PROGRAMS

April 16, 2021

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I. INTRODUCTION AND SUMMARY

The California Low-Income Consumer Coalition (CLICC) respectfully submits the following Comments in response to the Assigned Commissioner's Ruling Seeking Party Feedback on Track 1 Issues Related to California Hub for Energy Efficiency Financing (CHEEF) Programs ("Ruling Seeking Party Feedback") filed April 1, 2021, in the above-captioned proceeding.

CLICC comprises fourteen nonprofit organizations that provide free legal services to Californians across the state: Bet Tzedek Legal Services (Los Angeles), Centro Legal de la Raza (Oakland), East Bay Community Law Center (Berkeley), Marin Legal Aid (Marin), Community Legal Services in East Palo Alto (Palo Alto), Elder Law & Advocacy (San Diego), The Justice & Diversity Center of the Bar Association of San Francisco (San Francisco), the Katherine & George Alexander Community Law Center at Santa Clara School of Law (Santa Clara), Legal Aid Society of San Bernardino (San Bernardino), Public Counsel (Los Angeles), Public Law Center (Santa Ana), Riverside Legal Aid (Riverside), the Consumer Law Clinic at UC Irvine School of Law (Irvine), and the Watsonville Law Center (Watsonville).

CLICC's member organizations collectively assist thousands of Californians annually. Most CLICC member clients have household incomes below 200% of the federal poverty line. They include people of color, people with limited English proficiency, senior citizens, people with disabilities, and other low-income people who may be renters, fixed- or low-income homeowners, self-employed small business owners, small business employees, or people otherwise affected by local commerce.

CLICC applauds the CPUC's interest in examining financing mechanisms that will enable moderate- and low-income Californians to contribute to California's shared effort to meet its ambitious climate goals, and also to enjoy the more immediate benefits of reduced household energy costs and improved neighborhood air quality. The availability of sound consumer lending options is important to low-income consumers, and CLICC supports the CPUC's interest in helping make such products available.

CLICC is also pleased that the CPUC recognizes the importance of building strong consumer protection into the design of any clean energy financing program. CLICC members have seen the harsh effects on low-income consumers when programs are built without such protections. In particular, CLICC members have represented numerous clients who face insurmountable debt because of PACE financing products that were sold to them inappropriately or, far too often, fraudulently. Some of these clients have faced foreclosure on their homes as a result. CLICC members' experience with the PACE program has educated them about the risks that poorly-designed lending products pose to low-income consumers, and positions them well to advocate for careful consumer protections to be built into other clean energy financing products, such as the CHEEF programs. Here, CLICC will focus primarily on the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) Residential Energy Efficiency Loan (REEL) Program, although these comments apply to other CHEEF lending programs as well.

In these comments, CLICC addresses the Assigned Commissioner's Question 9, about whether additional consumer protections are needed in CAEATFA programs. Our answer is yes: additional protections are needed.

CLICC's suggestions for strengthening consumer protection in the REEL program are, in sum:

- REEL should better protect consumers by improving ability-to-pay determinations.

- REEL should improve consumer protections in the kinds of loans that qualify for participation.
- REEL should increase accountability for energy savings and for quality work.
- REEL should not allow on-bill repayment.
- The REEL program should not be expanded to include lender types and lending products with histories of predatory practices.
    - Limit or eliminate the proposed “Channel Partners” role.
    - Do not permit point-of-sale financing, leased or rent-to-own products, or instant approvals; do not facilitate “batch” approvals.

II. Additional consumer protections are needed for CHEEF programs.

The Assigned Commissioner’s asks, “Are any additional consumer protections needed for CHEEF pilots or programs?” CLICC believes that consumer protections in the REEL program should be strengthened. The consumer protection measures CLICC recommends would protect consumers at loan origination, improve accountability for lenders and contractors, and limit an extension of the program to financial products and sales models with a record of predatory practices.

a. REEL should better protect consumers by improving ability-to-pay determinations.

When consumers are given a loan they cannot afford, the consequences for them and their families are severe. The effects extend well beyond default on a particular obligation. Lenders have an obligation to determine borrowers’ ability to pay before lending them money. Current REEL regulations do not adequately protect consumers from loans they cannot afford to repay.

1. Define “debt-to-income ratio” and require documentation.

Current regulations require that lenders confirm that borrowers’ debt-to-income ratio does not exceed 55%.[1] However, “debt-to-income ratio” is not defined. Without a definition of debt-to-

[1] Cal. Code Regs., tit. 4, § 10091.4, subd. (f).

income ratio (DTI), the regulation may do little to assure that borrowers are in a position to repay the loan. For instance, "front end" DTI, used often in mortgage applications, generates a ratio based solely on housing costs in relation to gross income. "Back end" DTI gives a more accurate picture of a borrower's available income because it compares the borrower's total debt burden (not just housing costs) to net income (not gross income). CLICC urges the REEL program to define DTI as "total debt burden divided by net income."

Current regulations also do not require that lenders verify the borrower's DTI through documentation from the borrower. In fact, the regulations specifically exclude a requirement that lenders verify even borrowers' income, except when a borrower with a credit score between 580 and 640 seeks a loan of more than $20,000.[2] CLICC urges a requirement that lenders verify DTI through documentation in all cases. The documentation requirement is particularly important as newer financial products may use automated income verification based on predictive or estimation methodologies, rather than facts specific to a particular borrower, to make lending decisions. That is, rather than look at documentation of income and debt, lenders use a credit score or gross income number, perhaps coupled with other information about the borrower,[3] as a proxy for ability to pay, without investigation into the particular borrower's situation.

Current regulations bar loans to borrowers with credit scores below 580.[4] However, lenders are permitted to lend to borrowers with no credit score at all, "provided they do not have any unexplained derogatory credit reports."[5] The documentation requirement is particularly important for these borrowers, and the current documentation requirement (only the absence of negative information on a credit report), is insufficient.

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[2] Cal. Code Regs., tit. 4, § 10091.4, subd. (e) (1).
[3] Some of the additional information that model-based lenders may use raises the risk of discriminatory lending. For instance, lenders may use a borrower's zip code to predict ability to pay, and to determine which product to sell the consumer. They may offer less advantageous products to borrowers from lower-income zip codes, regardless of that particular borrower's financial situation. CLICC members have seen this in the PACE context, where PACE salespeople have steered homeowners, particularly in lower-income neighborhoods, toward PACE borrowing even when the particular consumer had the ability to pay for the improvements outright or qualify for a much cheaper financing option.
[4] Cal. Code Regs., tit. 4, § 10091.4, subd. (e) (1).
[5] Cal. Code Regs., tit. 4, § 10091.4, subd. (e) (2).

2. **Do not use utility bill payment history to support a decision to lend to an otherwise unqualified borrower.**

People pay their utility bills more reliably than they pay many other bills. For this reason, utility bill payment history should not be used in place of evaluation of the borrower's ability to pay based on debt-to-income ratio and credit scores. Current regulations permit lenders to use bill payment history in lieu of other ability-to-pay analysis.[6] This should not be allowed.

b. **REEL should improve consumer protections in the kinds of loans that qualify for participation.**

1. **Require lenders to include fees when calculating compliance with the interest rate cap.**

The REEL program's interest rate cap, currently 8.43%, is good for consumers.[7] Current regulations do not include a cap on fees. Rather, they simply require that a lender, as part of its initial application for participation in the program, describe "any fees that will be assessed to the Borrower or the contractor."[8] Since the regulations do not include a cap on fees, the interest rate limit will only protect consumers if the interest rate is calculated including fees.

CLICC seeks clarification about how the interest rate that must be adhered to and disclosed to the borrower will be calculated. On the one hand, proposed regulations specify that, in the case of a lease/service agreement, the lender must include fees in its interest calculation.[9] On the other, the proposed regulations specify that the Total Loan Principal Amount, the amount that may be claimed from the loss reserve program in case of default, expressly excludes "charges for ongoing service and/or maintenance and does not include any interest payments or ongoing finance charges."[10] CLICC strongly recommends that the calculation of the interest rate for all types of loans include fees. To protect consumers from lenders who may use the fee loophole to compensate for the interest rate cap, lenders should be required to include fees when calculating

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[6] Cal. Code Regs., tit. 4, § 10091.4, subd. (g).
[7] *See* (Cal. Code Regs., tit. 4, § 10091.4, subd. (f); "Ruling Seeking Party Feedback," Attachment A, p.7.
[8] Cal. Code Regs., tit. 4, § 10091.2, subd. (a) (9).
[9] See draft § 10091.5 (d): https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf
[10] See draft § 10091.1 (qq): https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf

and disclosing what will be, from a consumer perspective, the effective interest rate once fees are paid.

2. Limit loan length, to 10 years or to the useful life of products financed, whichever is shorter.

Current REEL regulations limit the loan term to 15 years.[11] This is five years longer than the maximum loan term permitted under CAEATFA's earlier program, the Clean Energy Upgrade Financing Program.[12] The term limit on REEL loans should also be 10 years. Since the loan attaches to the borrower, not the property, a borrower who moves may be paying the loan long after moving out of the place where the improvements were made. Limiting the length of the loan to 10 years mitigates the risk of this harm.

Moreover, the loan term should not be longer than the useful life of the product purchased with the loan. This may be shorter than 10 years. In the PACE program, CLICC members have seen the harmful effects of PACE loans written for terms exceeding the useful life of the equipment purchased; changes to the PACE regulations have mitigated this harm to some extent. REEL should include a similar limitation.

3. Reduce the loan limit from $50,000 to $35,000, and from $35,000 to $20,000 for credit-challenged borrowers; cap loan amount at 10% of the unit's value.

The current REEL loan limits are high: up to $50,000 per unit for most borrowers, and up to $35,000 for borrowers with a credit score between 580 and 640.[13] This is a very large loan for most homeowners; a 15-year, $35,000 loan for those with the lower credit scores –whom REEL terms "Credit-Challenged Borrowers" – is a significant loan. CLICC questions the value of offering such large loans.

[11] Cal. Code Regs., tit. 4, § 10091.8, subd. (m).
[12] Cal. Code Regs., tit. 4, § 10054, sub. (j).
[13] Cal. Code Regs., tit. 4, § 10091.4, subd. (c). This means that the largest possible loan, one made to the owner of a 4-unit building, would be $200,000.

The high limit gives an incentive to home improvement contractors to sell additional projects. CLICC members have seen this repeatedly in the PACE context.[14] In fact, CLICC members have shown that it is common practice for PACE administrators to establish exactly how much equity a homeowner has in their home, and then to propose a project that will cost exactly that amount of money, regardless of the homeowner's need for the improvements.

The high limit also encourages consumers, who may recognize the REEL loan for the generally sound consumer product it seems to be, to take on a larger debt than they will be able to afford in the long run – particularly given the relatively high interest rate even with an interest-rate cap.

Finally, the current high loan limits will cost ratepayers (and possibly taxpayers) more, since they subsidize the REEL program.

For these reasons, CLICC suggests that the REEL loan limits be reduced, from $50,000 to $35,000 for all borrowers, and from $35,000 to $20,000 for borrowers with credit scores between 580 and 640. In all cases, the loan amount should not exceed 10% of the value of the unit.[15]

c. REEL should increase accountability for energy savings and for quality work.

1. REEL should make lenders accountable for energy savings by requiring pre- and post-improvement assessments, including assessment of actual energy use before and after the improvements, and the collection of bill impact statements at loans enrollment.

The REEL program does not require project audits of any kind.[16] Nor does REEL require "bill neutrality." And while contractors must give borrowers a "bill impact statement"[17] estimating

[14] The legislature has recognized the particular risk of using home improvement contractors as a door-to-door sales force. See, e,g., Civil Code sec. 1770(a)(23). It is unclear whether or not "Channel Partners" will be operating door-to-door.
[15] The 10% of value cap was required in the Clean Energy Upgrade Financing Program. Cal. Code Regs., tit. 4, § 10052, subd. (e) (2).
[16] "Ruling Seeking Party Feedback," Attachment A, p.7.
[17] Cal. Code Regs., tit. 4, § 10091.8, subd. (f) (3) (F). Borrower confirmation of having received a bill impact statement from the contractor is a part of the Certificate of Completion. The regulations set forth no requirements about what the energy savings estimate must be based upon.

energy savings, contractors do not have to provide this statement as part of the loan enrollment process. The energy savings estimated in the bill impact statement are not measured against actual savings after project completion. The program measures presented by CAEATFA in its March 21 Status Update include no data on energy savings: indeed, no mechanism in the program design permits a measurement of the actual energy savings created through REEL-funded improvements.

CAEATFA presents this as an asset, a feature that makes the program more attractive to lenders. In a section labeled, "Project requirements include flexibility for broad uptake," CAEATFA promotes these REEL features: the "broad list of energy efficiency measures" approved for REEL financing, the inclusion of "non-energy improvements," the absence of a requirement that the improvements be bill-neutral, and the absence of any audits. CAEATFA claims that these rules provide a "flexibility to allow borrowers to make upgrades for reasons that extend beyond energy savings, such as installing double-pane windows for noise reduction or to keep out dust or wildfire smoke."[18] CAEATFA's illustration of REEL's "flexibility" demonstrates that without accountability, contractors are free to sell, and consumers are free to go into REEL-funded debt for, improvements that have nothing to do with clean energy.[19]

However, policymakers need to know what programs actually help California achieve California's climate goals. Without real data, we cannot do this. The need for evidence is all the more urgent when low-income people, assisted by ratepayers (and perhaps taxpayers), are bearing the debt burden for achieving these goals.

The Commission is among the policymakers interested in knowing the actual energy impact of the REEL program. In its evaluation of the REEL program in April 2020, the Commission

[18] "Ruling Seeking Party Feedback," Attachment A, p.7.
[19] CAEATFA's own explanation of the effects of this flexibility shows the way this flexibility can lend to improvements that have no effect on energy use. The double-paned windows example provided illustrates. In that example, double-paned windows were to be installed not for energy savings, but for noise reduction or indoor air quality improvement. However, the project could be paid for with REEL funds, not because it would fall within the 30% of a project that is not related to energy efficiency, but because double-paned windows are among the approved energy efficiency measures that REEL can finance—even if, in this particular case, neither borrower nor contractor believes their installation will have any impact on energy use. *See* "Ruling Seeking Party Feedback," Attachment A, p.7.

included an estimate of energy savings from the REEL program.[20] In making these estimates, the Commission relied on a study performed by a third party. Since data on actual energy savings is not collected as part of the REEL program, it is likely that this estimate was based either on claims by lenders about the energy savings, or on modeling.[21] Since the reporting requirements are non-existent, it is unclear what data the evaluation used in reaching its energy savings estimate. Ratepayers, taxpayers, and borrowers all deserve better.

Requiring that REEL lending results in reduced energy use is also important for consumer protection. CLICC members have learned from their clients' experience with PACE financing that without energy use accountability, loan funds are often used for projects that do not result in savings.[22] Contractors often sell PACE financing to consumers in order to fund not just the identified "clean energy" component, but expensive other sub-projects characterized as necessary to the overall project but often not necessary, and only tangentially, if at all, related to the project's energy goals.

Pre- and post-project assessments of energy use ca mitigate this harm. Such assessments are reasonable. A precursor to REEL, CAEATFA's Clean Energy Upgrade Financing Program, required pre- and post-project assessments.[23] The Department of Energy and the Commission recognize the need for site-specific assessments.[24] Pre- and post-project assessments are routinely required by numerous energy upgrade programs.[25]

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[20] Resolution E-5072, April 16, 2020, p.6: https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M333/K594/333594988.PDF.

[21] In the PACE program, participants in the loss reserve program must report to CAEATFA the energy savings of their projects as a requirement of participation the loss reserve program, but they do not have to document these claims in any way.

[22] Some stories of homeowners' experiences with broken PACE promises are recounted on the Clean Energy Justice website: http://cleanenergyjustice.org/stories/ .

[23] Cal. Code Regs., tit. 4, § 10051, subd. (a): https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IB1B3F6C1E1C741729C697203E8A68560&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default) . Many of the regulations governing the REEL program mirror those of the Clean Energy Upgrade Financing Program, but the project assessment requirements, which are the first requirements in the old program, did not travel from the previous program to REEL.

[24] *See* Department of Energy, "Best Practice Guildelines for Residential PACE funding Programs," November 18, 2016: https://www.energy.gov/sites/prod/files/2016/11/f34/best-practice-guidelines-RPACE.pdf, p.5; Decision 11-07-030, "Third Decision Addressing Petition for Modification of Decision 09-09-047," July 22, 2011, Attachment B, p.B1: https://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/139860.PDF .

[25] For a general discussion of the importance of assessments based on specific data, see *The Dark Side of the Sun: How PACE Financing Has Under-Delivered Green Benefits and Harmed Low Income Homeowners*, Berkeley Law

The REEL program should require pre- and post-project energy assessments. It should also require that the bill impact statement provided to the consumer also be provided to the REEL program at loan enrollment.

2. REEL should confirm work was done properly, and green energy estimates realized, before it authorizes reimbursement for a claim against the loss reserve fund.

REEL encourages lending by establishing a ratepayer-funded loss reserve program from which lenders may draw if a REEL borrower defaults. To submit a claim, a lender must show that program requirements were followed in making the loan. However, the lender does not have to prove that the work was completed or that the work resulted in the promised energy savings.

To establish that the work was done with at least minimal competency, lenders should be required to submit, as part of their claim, copies of finaled permits that correspond to the permit numbers provided as required in the Certificate of Completion. While it is relatively simple to obtain a permit, CLICC members have often found that contractors fail to close the permits with a final inspection. Requiring documentation that this basic step was completed would help assure that the work was actually done, and done with at least minimal competency.

In addition, claimants should provide a post-improvement bill analysis that permits a comparison between the energy savings estimate presented to the borrower in the Bill Impact Statement and the actual energy savings realized.[26]

These two measures would not only help avoid improper reimbursements from the loss reserve, but would work in tandem with the increased energy impact accountability measures described above.

Environmental Law Clinic, February 2021, pp.4-13: https://www.law.berkeley.edu/wp-content/uploads/2021/02/ELC_PACE_DARK_SIDE_RPT_2_2021.pdf

[26] The bill impact statement format is not specified. Because REEL loans may be used, at least in the future, to switch among fuels, it is important to clarify how project energy estimates can be shown without simple reliance on the bill reflecting only a single fuel.

3. Loan enrollment documents should include the date of the first payment and the amount of each monthly payment.

Proposed regulations eliminate a requirement that lenders provide the date of the first payment and the amount of each monthly payment.[27] To facilitate evaluation of consumer protections, this information should be required, as it is in the current regulations.[28] The Commission has used these data in evaluating the program in the past, and should continue to receive them.[29]

III. Do not permit on-bill repayment.

Consumers pay their utility bills at a higher rate than they pay other bills. They do this because of the risk of disconnection, among other considerations. Consumers are likely to assume that all amounts listed as due on a utility bill are equal in importance and must be paid.

The Commission should not make it more difficult for consumers to prioritize the payment of their debts. Combining loan repayment with utility bill payment makes this difficult. Most fundamentally, most consumers will treat the entire balance included on the utility bill as a "utility bill," one that will take first priority as they decide how to allocate insufficient funds, even though a portion of the payment will not go to utilities. Utility bills should remain only for utilities payments.

Second, on-bill repayment could pose logistical problems that would generate additional consumer confusion. For instance, if a consumer makes a partial payment, will the payment go first to the utility, with any amount beyond what is due for utilities service sent on to the lender, or will the payment be divided between the utility and the lender? How will the consumer know?

The simpler and safer approach is for REEL loan payments to remain separate from the borrower's utility bill.

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[27] See draft § 10091.8 subd. (c): https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf
[28] Cal. Code Regs., tit. 4, § 10091.8, subd. (c) (24 & 25).
[29] Resolution E-5072, April 16, 2020, p.12: https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M333/K594/333594988.PDF.

IV. Limit the REEL program to lenders with a demonstrated track record of consumer protection; do not expand the program by including lenders and lending products with histories of predatory practices.

To date, the lenders participating in the REEL program have been credit unions. Credit unions tend to be careful institutions, with an investment in their local communities and an obligation to their members. They are likely to operate prudently, and to assess each application with care. This expectation is reflected in current regulatory language that consistently refers to "financial institutions" and "loans." The types of institution listed as eligible in current regulations are "insured depository institution, insured credit union, community development financial institution, or finance lender."[30] The phrasing of the current regulations is consistent with the currently participating REEL lenders, all of whom are credit unions.

However, CAETFA reports plans to expand the program to other kinds of lenders and to other sorts of financing products. This is reflected in regulatory changes set to take effect in May 2021: "financial institution or finance lender" is replaced with "finance company," which includes an "other" category, meaning that any type of financial product would be eligible to participate in REEL.[31]

CLICC urges caution in making these changes, and recommends that the program maintain necessary consumer protections, including careful vetting of participating financial institutions, as it expands.

a. Provide more detail about who "Channel Partners" can be and how they may (and do) promote and sell REEL financing.

Another regulatory change that is of concern to CLICC is the introduction of a "Channel Partner": "A lender may include a Channel Partner as a co-applicant," and this partner would be "engaged in marketing, outreach, assisting borrowers with loan applications, and/or submission of loans to the Program."[32] The "Channel Partner" may also "assists lenders with marketing, deal

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[30] Cal. Code Regs., tit. 4, § 10091.2, subd. (a) (5).
[31] See draft § 10091.2 subd. (b) and § 10091.4: https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf
[32] See draft § 10091.1 subd. (l): https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf

generation, following program requirements, and collecting and submitting data to CAEATFA."[33]

The introduction of an entity that would be empowered to advertise and sell REEL loans to borrowers, and to help borrowers in applying for the loans, causes serious concern. By all appearances, "Channel Partners" will be salespeople. However, the regulations do not provide assurances that a Channel Partner, who is likely to be the point of contact with the consumer, will be licensed and accountable. For instance, the enrollment application proposed for a Channel Partner does not require that the prospective Channel Partner name its personnel, though lenders must do so, nor provide evidence of registration or licensure, though solar interconnection applications must list personnel including the names of any Home Improvement Salespeople (HIS) and their registration numbers.[34] The requirement in the PACE context that HIS names and registration numbers be provided arose from evidence that it was often the HIS who were responsible for misrepresentations of the terms of PACE financing and aggressive, predatory sales tactics.[35] In addition, while both contractors and lenders are required to agree to audits of their records as a condition of participation in the program, no such requirement is imposed on Channel Partners.[36]

The addition of a poorly-defined Channel Partner role, with no licensing or identification requirements, raises significant concerns.

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[33] See draft § 10091.2 subd. (b) and § 10091.4: https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf
[34] See draft § 10091.4 (b); Solar Transaction Record Contents, pre
[35] See, for instance, the Department of Financial Protection and Innovation's recent citation of a PACE solicitor for misrepresentation of the PACE program: https://dfpi.ca.gov/2021/03/30/dfpi-sanctions-former-pace-solicitor-under-californias-new-consumer-financial-protection-law/
[36] Cal. Code Regs., tit. 4, § 10091.2, subd. (a) (15) (financial institutions must permit audits); § 10091.5, subd. (a) (contractors must permit audits); draft § 10091.4 (proposed requirements for Channel Partners): https://www.treasurer.ca.gov/caeatfa/cheef/reel/regulations/draft031121.pdf.

b. Do not permit point-of-sale financing, leased or rent-to-own products, or instant approvals; do not facilitate "batch" approvals to enable "high volume lenders" to participate.

In its March 2021 Update, CAEATFA emphasizes its plan to expand the REEL program to include new financial products. Some of the products listed have a history of predatory practices. Others rely on fast evaluation of borrowers and may generate a decision to lend based on inadequate information or based on models rather than individualized assessment.

For instance, CAEATFA plans to "partner with a fin tech company in order to provide instant approvals," and to facilitate "batch" loan enrollment. Consumers do not need instant approvals for an expensive new loan: on the contrary, they need a lender to consider their application carefully and specifically, to be sure that they are able to repay the loan. Consumers benefit from a process that encourages deliberation.

Point-of-sale financing frequently relies on inexperienced retail salespeople making lending decisions using software provided by a lender, often on hardware the merchant presents to the consumer for completing the transaction. Point-of-sale financing is associated with high levels of misrepresentation and fraud, as when borrowers are told to electronically sign something that turns out to be a contract they do not want or whose terms they do not understand.[37] CLICC does not see a need for point-of-sale financing for the kinds of large-scale improvements and appliances that the REEL program aims to enable consumers to purchase. Rent-to-own and leasing products are notoriously bad deals for consumers, and should not be included in the REEL program.

V. CONCLUSION

CLICC appreciates the opportunity to offer its recommendations for the REEL program. The program's objectives are too important to be put at risk by bypassing critical consumer protection

[37] See, e.g., predatory practices by QuadPay, a point-of-sale lender: https://www.quadpay.com/for-businesses/in-stores/?gclid=Cj0KCQjw6-SDBhCMARIsAGbI7UhyWhshzFI9bFfVqqWvH0696LUTCwVEhIljdBcpGvKdneKP6MIfpDgaAh9yEALw_wcB): Department of Financial Protection and Innovation v. Quadpay, https://dfpi.ca.gov/wp-content/uploads/sites/337/2020/04/Quadpay-Consent-Order-Final.pdf.

measures whose absence has sidetracked similar programs. CLICC strongly believes that the goals of climate change mitigation and protecting our state's most vulnerable consumer are not incompatible. Indeed, both are urgent, and necessary.

Respectfully submitted,

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