

COMMENT LETTER

July 29, 2013

Joint Letter in Support of Amendment to Prohibit FHA from Insuring Mortgages Seized Through Eminent Domain (pdf)

American Bankers Association American Council of Life Insurers American Land Title Association American Securitization Forum Association of Mortgage Investors Credit Union National Association Financial Services Roundtable Housing Policy Council Independent Community Bankers of America Investment Company Institute Mortgage Bankers Association National Association of Federal Credit Unions National Association of Home Builders National Association of Realtors Securities Industry and Financial Markets Association

July 29, 2013 Dear Members of the U.S. House of Representatives: The undersigned organizations urge you to support an amendment that may be offered to H.R. 2610, the Transportation and HUD Appropriations Act for Fiscal Year 2014, to prohibit the Federal Housing Administration (FHA) from insuring residential mortgages seized through eminent domain. The amendment has become necessary because numerous communities across the country are considering a plan developed by a vulture fund that envisions using a municipality's eminent domain power to acquire performing but underwater mortgage loans held in private-label mortgage-backed securities and then insure the new loans through the taxpayer-backed FHA. According to press reports, the city of Richmond, California, is prepared to become the first in the nation to start seizing loans in this unprecedented manner. While we support a broad range of programs to assist struggling homeowners and the communities in which they reside, we are firm in our belief that using the power of eminent domain in this manner would harm our nation's housing markets and the very communities it is intended to help. The introduction of this new risk to the housing finance system would freeze the return of private capital to our markets at a time when many in Congress are looking for ways to increase the role of the private sector and decrease the federal government's footprint. This proposed use of eminent domain also raises very serious legal and constitutional issues. No jurisdiction has ever used eminent domain to acquire underwater mortgages in securitized pools, and such a use would trigger costly legal challenges with uncertain and uneven results across multiple states. Numerous steps have been taken to assist homeowners facing financial difficulties and the mortgage industry continues to work with policy makers to look for innovative ways to assist borrowers. We do believe, however, that using the power of eminent domain to abrogate a contractual agreement between borrower and creditor would have far greater and lasting negative effects on existing and future homeowners and Main Street investors. We urge your support for Representative Mulvaney's amendment to H.R. 2610, the Transportation-HUD Appropriations Act for Fiscal Year 2014, to ensure that taxpayers don't foot the bill for this arguably unconstitutional scheme.

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