

May 21, 2007

The Honorable Barney Frank  
Chairman  
House Financial Services Committee

The Honorable Spencer Bachus  
Ranking Member  
House Financial Services Committee

The Honorable Chris Dodd  
Chairman  
Senate Banking Committee

The Honorable Richard Shelby  
Ranking Member  
Senate Banking Committee

Dear Chairman Dodd, Chairman Frank, Ranking Member Shelby, and Ranking Member Bachus:

Homeownership is the most accessible tool available to help families achieve a secure economic future, but today market failures and abusive lending practices are stripping the benefits of homeownership from millions of families **throughout the mortgage market**. The epidemic of home losses on subprime mortgages—as many as one in five— is a wake-up call, providing strong evidence that the current system of mortgage regulation is seriously flawed. To preserve homeownership for American families, we need real, systemic change embodied in policies that protect the **sustainability of homeownership**. Below, we outline a policy framework that would drive effective solutions to preserve the traditional benefits of owning a home. Our views represent those of many consumer, civil rights, and community groups, as well as a number of responsible mortgage lenders.

As Congress begins a new session, we respectfully ask that any new anti-predatory lending legislation be based on the following principles:

- **Restore sensible underwriting and eliminate unsustainable loans;**
- **Eliminate incentives for lenders to steer borrowers to abusive loans;**
- **Require accurate and accountable loan servicing;**
- **Ensure effective rights and remedies for families caught in predatory loans;**
- **Preserve essential federal and state consumer safeguards; and**
- **Reduce foreclosures through assistance to distressed borrowers.**

**Sustainable loans.** Many lenders have abandoned careful lending standards to make loans that borrowers cannot repay without refinancing or selling their home. As a result of this weak underwriting, an increasing number of homeowners are unable to keep up with their mortgage payments. High-risk adjustable rate (ARMs) mortgages, which are underwritten to a low teaser payment instead of to the fully indexed rate, are an example of this problem. Studies show that today's subprime mortgages typically include features that increase the chance of foreclosure *regardless of the borrower's credit*. This has caused many families to default on unnecessarily

risky loans and lose their homes. Other families are forced to refinance and pay associated fees or sell their home. *Responsible lending demands a realistic analysis of the borrower's ability to repay the loan based on all its terms.*

**Incentives for fair loans.** The subprime market now rewards lenders and brokers who charge borrowers excessive points and fees or channel them toward riskier loan products. Unknown to most borrowers, brokers receive payments known as “yield spread premiums” for selling loans at a higher interest rate than the lender requires. Most subprime mortgages also include prepayment penalties, which can cost families thousands of dollars when they refinance or pay off their loans early. Too often the borrower does not receive a lower interest rate in exchange for the prepayment penalty. In the inefficient subprime market, prepayment penalties are simply another method of stripping home equity or trapping borrowers in costly loans. These fees are only appropriate when they are in exchange for a real benefit to the borrower. A law to sustain homeownership must prohibit brokers and lenders from steering borrowers into mortgages with excessive costs.

**Accountable loan servicing.** Companies that collect payments on mortgages—loan servicers—have tremendous influence on the success of the loan. Servicer errors and unfair practices in recent years have contributed to the recent surge in foreclosures. Problems typically arise when loan servicers impose costly and unnecessary hazard insurance or delay crediting mortgage payments so that they can charge costly late fees to the homeowner. As it stands now, mortgage servicers have incentives to profit from loan defaults. In a healthy and truly competitive market, loan servicers would charge reasonable fees and support homeowners' efforts to avoid foreclosure.

**Basic rights and remedies.** Victims of abusive lending practices have very little recourse because industry often uses its market power to limit homeowners' access to justice. To be effective, consumer protection laws must: (1) give families a private right of action, the right to pursue class actions, and defenses against collection and foreclosure, which are often the only effective way to deter bad actors; (2) contain strong remedies and penalties for abusive acts; (3) provide effective assignee liability so that borrowers can pursue legitimate claims even when the originator has sold their loan; and (4) prohibit mandatory arbitration clauses that weaken victims' legal rights and deny them access to seeking justice in a court of law. Without these fundamental procedural protections, other consumer protection rules are unenforceable.

**Preserve and advance existing protections.** Current laws contain certain essential consumer protections designed to address some of the egregious practices in the mortgage industry, and these protections must be preserved. In particular, the majority of states have passed laws that have been highly effective in curbing abusive lending practices without hampering borrowers' access to credit. Any new law must build on these protections, bearing in mind that real estate markets vary significantly in different locations, and that states are in the strongest position to address new lending abuses that evolve over time. Legislative solutions must also preserve protections for families outside the mainstream real estate market—for example, those who use alternative ownership options such as mobile and manufactured housing and seller-driven financing; are credit impaired; have limited or no credit histories; have limited English skills; or are located in high-poverty areas.

**Reduce skyrocketing foreclosures.** Any new law should preserve the benefits of homeownership by assisting homeowners already in distress. Recent research shows that as many as one out of five subprime mortgages made in recent years will end in foreclosure. In addition to strengthening the market to benefit future borrowers, legislation should address the increasing numbers of existing homeowners who risk losing their home. Federal legislation could build on successful state models to provide affordable homeownership preservation loans to borrowers who are in default due to circumstances beyond their control.

\* \* \* \* \*

We welcome legislation that, based on the principles outlined above, contains effective solutions to current problems and allows rapid responses to emerging abuses. We look forward to working with you on the critical issue of preserving the benefits of homeownership, and we thank you for your time and consideration.

Sincerely,

AARP  
AFL-CIO  
American Council on Consumer Awareness  
Association of Community Organizations for Reform Now (ACORN)  
Center For Responsible Lending  
Coalition of Community Development Financial Institutions  
Consumer Action  
Consumer Federation of America  
Consumer Union  
International Union, United Auto Workers.  
Leadership Conference on Civil Rights  
NAACP (National Association For The Advancement of Colored People)  
NAACP Legal Defense & Educational Fund, Inc.  
National Association of Consumer Advocates  
National Consumer Law Center (on behalf of it's low-income clients)  
National Council of La Raza  
National Community Reinvestment Coalition  
National Fair Housing Alliance  
National NeighborWorks Association  
National Lawyers' Committee for Civil Rights Under Law  
National People's Action  
National Training and Information Center  
Opportunity Finance Network  
Rainbow/ Push  
U.S. Public Interest Research Group  
YWCA USA  
Affordable Housing Education and Development, Inc. (NH)

Alabama Arise  
Alabama Association of County Directors of Human Resources  
Alabama Council of Human Relations  
Alaska Public Interest Research Group  
Alexandria Affordable Housing Corporation (LA)  
Allen Neighborhood Center (MI)  
American Community Partnerships (DC)  
American Friends Service Committee NH Program, (NH)  
Arizona Consumers Council  
Arizona PIRG  
Birmingham Business Resource Center, (AL)  
Border Fair Housing & Economic Justice Center (TX)  
Cabrillo Economic Development Corp. (CA)  
California Reinvestment Coalition  
Cambridge Consumers' Council  
CATCH Neighborhood Housing (NH)  
Ceiba Housing and Economic Development Corp. (Puerto Rico)  
Central Illinois Organizing Project (CIOR)  
Center for Consumer Affairs (WI)  
Center for Social Concerns, University of Notre Dame  
Champaign County Health Care Consumers (IL)  
Cherokee Nation (OK)  
Chicago Consumer Coalition  
Cincinnati Change (OH)  
Civil Justice, Inc  
Coastal Enterprises, Inc. (ME)  
Codman Square Neighborhood Development Corp. (MA)  
Colorado Rural Housing Development Corporation (CA)  
Columbia Consumer Education Council (SC)  
Community Development Corporation of Long Island, Inc. (NY)  
Community Enterprise Investments, Inc. (FL)  
Community Frameworks (WA)  
Community Housing Development Corporation of North Richmond  
Community Housing Partners Corporation (VA)  
Community Law Center  
Community Law Center, Inc. (MD)  
Community Neighborhood Housing Services, Inc. (MN)  
Community Reinvestment Association of North Carolina (NC)  
Consumer Federation of California  
Consumer Federation of Southeast  
Corporation for Enterprise Development (DC)  
Cuyahoga County Foreclosure Prevention Program  
Dayton Community Reinvestment Coalition (OH)  
Delaware Community Reinvestment Action Council, Inc. (DE)  
Department of Sociology and Anthropology, IU South Bend  
Detroit Alliance for Fair Banking (MI)

Durham Community Land Trustees (NC)  
East Akron Neighborhood Development Corporation Inc. (OH)  
East Side Organizing Project - Cleveland, OH  
Empire Justice Center  
Enterprise Corporation of the Delta/HOPE (MS)  
Ethical Lending Foundation  
Fair Housing Center of Northern Alabama  
Fair Housing Council of the San Fernando Valley  
Housing Research & Advocacy Center (out of Cleveland)  
Fort Berthold Housing Authority (ND)  
Foundation Communities (TX)  
Frontier Housing, Inc. (KY)  
Greater Rochester Community Reinvestment Coalition (NY)  
Hamilton County Community Reinvestment Group (OH)  
Hawaiian Community Assets (HI)  
HEED (MS)  
HIP Housing  
Hispanic Leadership Coalition of St. Joseph County  
Home Management Resources  
Homeward, Inc. (IA)  
Housing Action Illinois  
Housing and Credit Counseling, Inc.(KS)  
Housing Assistance Program of Essex County, Inc. (NY)  
Housing Education Program (CA)  
Housing Opportunities Made Equal of Virginia, Inc.  
Housing Partnership of Northeast Florida, Inc. (FL)  
Human Investment Project (HIP) in San Mateo  
Indiana Association for Community Economic Development (IN)  
Inglewood Neighborhood Housing Services, Inc. (CA)  
Interfaith Housing Center of the Northern Suburbs - Chicago, IL  
Iowa Citizens for Community Improvement  
Jacksonville Area Legal Aid, Inc.  
Jewish Community Action, (MN)  
Joseph Corporation of Illinois, Inc. (IL)  
Justine Petersen Housing & Reinvestment Corporation (MO)  
Kensington-Bailey Neighborhood Housing Services, Inc. (NY)  
Knox Housing Partnership, Inc. (TN)  
LaCasa of Goshen, Inc. (IN)  
Latino Leadership, Inc. (FL)  
Lawyers' Committee For Civil Rights Under Law of the Boston Bar Association (MA)  
Lighthouse Community Development - Pontiac, MI  
Long Island Housing Services, Inc. (NY)  
Louisiana CRA Coalition (LA)  
Madison Park Development Corporation (MA)  
Manna, Inc. (DC)  
Mass Consumers' Coalition

MassPIRG  
Metropolitan Housing Coalition (KY)  
Metropolitan Milwaukee Fair Housing Council (WI)  
Metropolitan St. Louis Equal Housing Opportunity Council (MO)  
Miami-Dade Neighborhood Housing Services, Inc. (FL)  
Michigan Community Reinvestment Coalition, (MI)  
Micronesia self-Help Housing Corporation  
Mission Economic Development Agency (MEDA)  
Monmouth County Fair Housing Board, (NJ)  
Montgomery Housing Partnership (MD)  
Mountain State Justice, Charleston, W.V.  
National Association of Community Economic Development Associations (MD)  
Native American Health Coalition (TX)  
Navajo Housing Authority (AZ)  
Nehemiah Community Reinvestment Fund, Inc. (CA)  
Neighborhood Housing Partnership of Greater Springfield, Inc. (OH)  
Neighborhood Housing Services of Baltimore, Inc. (MD)  
Neighborhood Housing Services of Greater Cleveland, Inc. (OH)  
Neighborhood Housing Services of Kansas City, Inc. (MO)  
Neighborhood Housing Services of New Haven, Inc. (CT)  
Neighborhood Housing Services of Oklahoma City, Inc. (OK)  
Neighborhood Housing Services of the Black Hills, Inc. (SD)  
Neighborhood Housing Services of the Lehigh Valley, Inc. (PA)  
Neighborhood Housing Services, Inc. (PA)  
Neighborhood Nonprofit Housing Corporation  
Neighborhood Renewal Services of Saginaw, Inc. (MI)  
NeighborWorks Columbus (GA)  
NeighborWorks Rochester (NY)  
New Directions Housing Corporation (KY)  
New Jersey Citizen Action, (NJ)  
NHS of Chicago (IL)  
Northeast South Dakota Community Action Program  
Northeast South Dakota Economic Corporation  
Northwest Indiana Community Reinvestment Alliance (IN)  
North West Side Housing Center - Chicago, IL  
Norwalk (Connecticut) Fair Housing (CT)  
Notre Dame Legal Aid  
Nuestra Comunidad Development Corp. (MA)  
Oregon Consumer League  
Piedmont Housing Alliance  
Pittsburgh Community Reinvestment Group (PA)  
PPEP MicroBusiness and Housing Development Corporation  
PPEP Microbusiness and Housing Development Corporation, Inc. (AZ)  
Project Change Fair Lending Center (NM)  
Reservoir Hill Improvement Council  
Resurrection Project - Chicago, IL

Rural Opportunities, Inc. (NY)  
Salisbury Neighborhood Housing Services, Inc. (MD)  
Sargent Shriver National Center on Poverty Law (IL)  
Scott County Housing Council (IO)  
Scranton Neighborhood Housing Services, Inc. (PA)  
Seedco  
Self-Help Enterprises (CA)  
Shorebank  
Shorebank Enterprise Pacific  
Siouxland Economic Development Cooperation  
SJF Ventures  
South Austin Coalition Community Council - Chicago, IL  
South Bend Center for the Homeless  
Southeast Community Development Corporation  
Southern Good Faith Fund (AR)  
Southwest Fair Housing Council (AZ)  
St. Joseph Valley Project  
St. Lawrence County Housing Council, Inc.  
Tlingit-Haida Regional Housing Authority (AK)  
Tri-County Housing & Community Development Corporation (CO)  
Unidos Para La Gente (TX)  
United Keetoowah Band of Cherokee Indians (OK)  
United Neighborhood Centers of Northeastern Pennsylvania (PA)  
United South Broadway Corporation (NM)  
Utica Neighborhood Housing Services, Inc. (NY)  
Village Capital Corporation  
Virginia Citizens Consumer Council  
Virginia Poverty Law Center  
West Elmwood Housing Development Corp. (RI)  
Westchester Residential Opportunities, Inc. (NY)  
Western Massachusetts Enterprise Fund  
Wisconsin Consumers League  
Working Together for Jobs, (NJ)