

January 22, 2008

United States Senate
Washington, DC 20510

Dear Senator:

We are writing to express our strong support for S. 2452, the “Home Ownership Preservation and Protection Act” and to urge you to cosponsor the legislation.

At a time when abusive lending practices have fueled a mortgage crisis expected to result in over two million foreclosures, S. 2452 would restore a fair marketplace that encourages responsible lending and sustainable homeownership. The legislation includes provisions that would result in sustainable loan origination, fair and accurate appraisals, and accountable loan servicing. It also would provide an effective enforcement structure and would permit states to continue to respond to local market conditions.

New protections for all homeowners. Everyone deserves a fair deal on their mortgage. Accordingly, S. 2452 extends key protections to all loans, including prime loans. These protections include a duty of good faith and fair dealing for all mortgage originators, a fiduciary duty for mortgage brokers to act in the interest of their customers, and a prohibition on steering customers into more expensive loans than those for which they qualify. This section also would require that a lender’s assessment of a loan applicant’s qualifications be supported by adequate documentation

New protections for subprime and nontraditional mortgages. Abuses have been rampant in the subprime and nontraditional prime mortgage markets. New protections include:

- ***Underwriting for the full term of the loan.*** Many loans feature an initial teaser rate that subsequently jumps, causing a homeowner’s monthly payments to rise suddenly and steeply to unaffordable levels. In recent years, to the extent that they even considered the loan applicant’s ability to repay the loan, lenders only evaluated affordability relative to the initial rate rather than the post-reset rate. The resulting “payment shock” significantly increases the chance of default and foreclosure.
- ***Prohibition on prepayment penalties.*** Prepayment penalties are mainly found in the subprime marketplace. Prepayment penalties prevent homeowners with unsustainable loans from refinancing into more affordable loans.
- ***Prohibition on yield spread premiums (YSPs).*** YSPs are bonuses paid by lenders to brokers for steering borrowers into more expensive loans than those for which they qualify.
- ***Required net tangible benefit for refinancings.*** This prevents lenders from refinancing homeowners into loans that simply strip equity without providing a corresponding benefit.
- ***Requirement that lenders escrow for taxes and insurance.*** This is already the case with most prime mortgages, yet subprime lenders often do not require an escrow account, leaving homeowners struggling to make separate payments for their property taxes and hazard insurance. The lack of an escrow requirement also enables subprime lenders to offer what looks like a very low monthly payment when compared with a monthly payment that includes taxes and insurance.

Updated protections for “high-cost” mortgages. The definition of high-cost mortgages established in the Home Ownership and Equity Protection Act (HOEPA) has become outdated because of significant market changes. S. 2452 updates those definitions to expand the number of loans covered by HOEPA.

Enforcement and Remedies. Effective remedies enable enforcement of this legislation’s protections. The remedies recognize the roles of both mortgage originators and secondary market players and ensure that the incentives of all market participants are appropriately aligned.

Fair and accurate appraisals. The bill establishes that appraisers owe homebuyers a duty of good faith and fair dealing, and it would prohibit lenders from influencing appraisers to fraudulently inflate the home value.

Servicing reform. S. 2452 would establish a duty of good faith and fair dealing for loan servicers, compel servicers to credit payments promptly, require that fees be reasonable and for services provided, and prohibit force-placed insurance without clear notice to homeowners. Finally, servicers would be required to work with homeowners in default to try to find a workable solution prior to initiating foreclosure.

Housing counseling. The bill would ensure that homeowners are notified of the availability of foreclosure prevention counseling, and servicers could not initiate a foreclosure for 45 days when the borrower was working with an approved housing counselor. This requirement would give distressed borrowers an opportunity to review their options for avoiding foreclosure.

Flexibility for States. The legislation recognizes that even with its strong protections, the mortgage marketplace may respond by creating new products that conform to its provisions but pose dangers to sustainable homeownership. It would allow states to continue to innovate to respond to these future abusive products. S. 2452 would also ensure that homeowners can continue to rely on state fraud and unfair and deceptive practices laws to respond to abusive lending practices.

Again, as the subprime crisis worsens, we urge you to cosponsor S. 2452. We look forward to working with you on the bill as it moves through the legislative process.

Sincerely,

AARP
AFL-CIO
Association of Community Organizations for Reform Now (ACORN)
Black Leadership Forum
Center for Responsible Lending
CDFI Coalition
Consumer Action
Consumers Union
Consumer Federation of America
International Union, United Auto Workers
Lawyers' Committee for Civil Rights Under Law
Leadership Conference on Civil Rights
National Association for the Advancement of Colored People (NAACP)
National Association of Consumer Advocates
National Coalition on Black Civic Participation
National Community Reinvestment Coalition
National Consumer Law Center, on behalf of its low-income clients
National Council of La Raza
National Education Association
National Fair Housing Alliance
Opportunity Finance Network
Rainbow/PUSH Coalition
Service Employees International Union
U.S. Public Interest Research Groups