MCRC The Voice For Maryland Consumers
MARYLAND CONSUMER RIGHTS COALITION
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November 26, 2012

Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
400 Seventh Street SW
Ninth Floor
Washington, DC 20004

Dear Acting Director DeMarco:

The Maryland Consumer Rights Coalition (MCRC) appreciates the opportunity to submit comments on the FHFA State-Level Guarantee Fee-Pricing notice, FR Document 2012-23541published in the Federal Register September 25, 2012.

The Maryland Consumer Rights Coalitions advances fairness and justice in the marketplace through research, advocacy, and education. MCRC was founded in 2000 and has been advocating for strong consumer protections for home-buyers and home-owners since 2006. MCRC staff have served on several of Governor O'Malley's housing and foreclosure task forces and have helped to pass legislation that expanded and strengthened the state's mediation process and that have helped struggling families retain their homes. MCRC and our 6,000 supporters statewide support policies that rectify the lack of regulatory oversight and enforcement that contributed to the predatory and toxic loans that were packaged and sold to homeowners across our state.

For a number of reasons, MCRC believes that the FHFA proposal to adjust fees to reflect the costs of state-level foreclosure processes to be overly simplistic and short-sighted.

- The proposal incentivizes poor behavior. Longer foreclosure timelines in Maryland as well as other states arose from poor servicer behavior. As the recent robo-signing scandal illuminated, servicers moved to foreclose upon homeowners without due diligence or compliance with existing laws. Servicers relied upon poorly documented affidavits and third party vendors who were rarely scrutinized. As the recent national mortgage settlement stated, there were also a number of problems with servicers verification of affidavits as well as numerous problems with their loan modification programs including improper denials of loan modification applications, lost documents, and poor customer servicing. State-level reforms were passed to redress servicer noncompliance and provide homeowners with a reasonable timeframe to retain their homes. Yet, this proposal rewards states with short timelines and fewer consumer protections.

- The proposal focuses on the immediate costs of foreclosures rather than the longer-term economic gains of maintaining a stable housing market within the state. Estimates of the costs of foreclosures are often framed in ways that include only their costs to individual families, loan servicers, and investors. Such calculations miss the cascade effect foreclosures have on the community at large as property values decline in neighborhoods with multiple foreclosures, cities lose their tax base, and servicers must shoulder the costs of loan modifications and care of the foreclosed properties. When these costs are included, the real costs of foreclosures become clearer. In Baltimore City, for instance, foreclosures cost families more than $1.5 billion between 2008 and 2010 while the city lost $13.6 million in property tax revenue in 2010 alone as a result of the foreclosure crisis. Negative equity continues to be a drag on the economy and until it is rectified, any economic recovery will be slow.

- Moreover, higher fees imposed in certain states by this proposal would further constrain the housing market from recovering since it will reduce availability of the credit as higher fees will make it more difficult for new homebuyers to qualify for financing.

- The proposal imposes an undue regulatory burden on a select number of states and on new homebuyers within these states despite the fact that it was bank and servicer misconduct -not state laws nor the actions of the majority of homeowners-that led to the financial crisis.

- The proposal fails to recognize the role the servicer plays in complying with state reforms. There is a failure of market choice for homeowners who cannot choose their servicers. Homeowners have no choice about who services their mortgage; they are unable to shop around for the best performance and rates -- instead they are stuck with whatever servicing firm the mortgage investor selects. Homeowners cannot "fire" their servicer, and this leaves servicers with little incentive to provide adequate customer service. At the same time, perverse incentives within the mortgage system make it more profitable for servicers to foreclose upon a house rather than work to modify a loan. Servicers are often slow to comply with state guidelines. In Maryland, there is great divergence between national servicers compliance with state timelines. Certain servicers move much more slowly in filing their Notices of Intent to Foreclose (NOI) than others. This proposal fails to take into account both the fact that homeowners do not have consumer choice to determine their servicer nor the fact that servicers actions account for many of the delays in certain states.

For all of these reasons, MCRC urges the FHFA to abandon this proposal and seek alternatives that will not unduly penalize states with strong consumer protections.

Thank you for your consideration of these comments.

Sincerely,

Marceline White
Executive Director