



Illinois Department of Financial and Professional Regulation

Office of the Secretary

PAT QUINN
Governor

MANUEL FLORES
Acting Secretary

November 26, 2012

Mr. Edward J. DeMarco
Acting Director
FHFA OPAR
400 Seventh Street SW
Ninth Floor
Washington, DC 20024

RE: Proposed Rule Making on State-Level Guarantee Fee Pricing [No. 2012-N-13]

Dear Acting Director DeMarco:

I am writing on behalf of the Illinois Department of Financial and Professional Regulation ("Department") in comment to the Federal Housing Finance Agency's ("FHFA") proposed State-Level Guarantee Fee Pricing rule. The Department is supportive of the FHFA and its legislative mandate to ensure the safe and sound operation of Fannie Mae, Freddie Mac and the Federal Home Loan Banks (collectively referred to as the "Enterprises"). However, the Department is opposed to the proposed rule for three reasons.

First, the proposed rule may undermine local efforts to address the foreclosure crisis in respective jurisdictions through reasonable and balanced state regulations and laws. Since the start of the foreclosure crisis, many states have adopted additional consumer protections aimed at helping distressed borrowers keep their homes while also shoring up the integrity of the real estate and residential lending industries. For instance in Illinois, the state legislature and the Governor promulgated the Illinois Homeowner Protection Act of 2009 ("HPA") which requires servicers to provide borrowers with a 30 day Grace Period Notice once a loan is more than 30 days past due and prior to the filing of a foreclosure action. If within the 30 day notice period a borrower obtains approved housing counseling, the borrower may have an additional 30 days, up to 60 days, to negotiate a sustainable workout plan with the servicer. In total, HPA may require a servicer to forego the filing of a foreclosure action for a maximum of 90 days. However, during that time both servicer and borrower have an opportunity to not only rescue a mortgage from foreclosure, but also avoid any adverse impact upon the Enterprises by way of g-fee expenditures associated with foreclosure actions. The State of Illinois passed the HPA to assist distressed borrowers keep their homes, stabilize communities and encourage lenders and servicers to better resolve troubled mortgages. FHFA's proposed rule sends the wrong signal and punishes states like Illinois that have been proactive and creative in addressing the foreclosure crisis in their respective communities.

Second, assessing the proposed g-fee on prospective borrowers unfairly shifts responsibility of managing a lawful foreclosure process away from servicers. During the foreclosure crisis, it was discovered that servicers engaged in unlawful foreclosure practices, including robo-signing. This led to a comprehensive review by federal and state banking regulators and state attorneys general resulting in

the February 2012, \$25 billion National Mortgage Servicer Settlement (“Settlement”) with the five largest mortgage servicers. These mortgage servicers instituted self-imposed foreclosure moratoriums in order to correct their flawed servicing and foreclosure practices. Such moratoriums are outside normal foreclosure processes in the State of Illinois and should not be used in the FHFA’s calculation of “Total time to obtain marketable title in days” or “Cost per day relative to the national average”.

Third, when determining whether the g-fee’s imposed by the Enterprises is proper and adequate, the FHFA should include an assessment of mortgage servicer performance and underwriting standards at origination. The focus on delays in the foreclosure process and associated costs only addresses one aspect of credit risk undertaken by the Enterprises. Arguably many credit risk concerns are best addressed prior to origination of a mortgage loan. By maintaining adequate underwriting safeguards the Enterprises can minimize credit risk, thus future foreclosure filings. Furthermore, mortgage servicer performance, measured by ability to cure loans in default or otherwise move them onto the foreclosure conveyor belt in a timely manner, must be measured. By including these three factors the FHFA will be able to not only determine whether a g-fee increase is proper and adequate, but who ultimately bears the responsibility to pay.

The Department is supportive of the FHFA and is appreciative of its work to keep residents of the State of Illinois in their homes. We also support the FHFA’s effort to assist Illinois residents achieve the American dream of homeownership. However, an increase in g-fee that is passed onto Illinois consumers impedes state efforts to address the foreclosure crisis and unfairly charges new prospective borrowers for previous wrong doing perpetrated by certain servicers. As such, the Department is opposed to implementation of the proposed rule. On behalf of the Department, I thank you for your time and look forward to an ongoing dialogue so that we can work together and bring stability to the housing and lending markets.

Sincerely,



Manuel Flores
Acting Secretary