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ARKANSAS MANUFACTURED HOUSING ASSOCIATION

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July 21, 2010

Submitted via e-mail to:  
[regcomments@fhfa.gov](mailto:regcomments@fhfa.gov)

Mr. Alfred M. Pollard, Esq.  
General Counsel  
Federal Housing Finance Agency  
Fourth Floor  
1700 G Street, N.W  
Washington, DC 20552

**RE: RIN 2590-AA27 - Duty To Serve Underserved Markets**

Dear Mr. Pollard:

On behalf of the members of the Arkansas Manufactured Housing Association - the statewide trade organization of the factory-built, site-delivered housing industry - I appreciate the opportunity to submit the following comments in response to the Federal Housing Finance Agency's proposed rule (75 FR 32099), published in *The Federal Register* on June 7, 2010 concerning government-sponsored enterprises' (GSEs) 'Duty To Serve Underserved Markets'.

The members of this organization strive to provide affordable, non-subsidized housing to thousands of very low, low- and moderate-income families in Arkansas each year. More often than not, potential homebuyers are faced with very limited options for the finance of their chosen home. In today's economy, many traditional sources of housing finance are still hesitant to consider lending on manufactured housing - due primarily to outdated stereotypes and misconceptions about the product and the credit worthiness of past customers. Increased involvement by the GSEs could reverse this trend.

Collectively, the industry believes that Congress' inclusion of 'Duty To Serve' language in the Housing and Economic Recovery Act of 2008 (HERA) - specifically with the designation of manufactured housing as an underserved market - requires that GSEs 'do more' to assist manufactured home buyers. Our analysis of the proposed rule uncovers very little that will stimulate additional avenues of affordable lending programs to assist very low-, low- and moderate-income Arkansans who wish to make manufactured housing their housing choice.

Overall, the Agency's comments on the proposed rulemaking effort go to great lengths to justify FHFA's position minimizing the GSEs role in manufactured home lending - but **DO NOT** satisfy the Congressionally-mandated provisions of DTS. For example:

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\* In the comments for this proposed rule, the Agency states: *“Manufactured housing could be an important housing option for lower-income families. Nearly half of all loans originated on manufactured homes from 2004 to 2008 were for families with incomes at or below 80 percent of area median income (AMI).”* Herein lies an opportunity for the Agency to fulfill its true mission to serve this underserved market, in both rural and non-rural settings.

Yet, the proposed rulemaking ignores chattel loans and land-home financing that may represent the only possibility for very low-, low- or moderate-income families to achieve homeownership from consideration toward the GSEs ‘Duty to Serve’ - by eliminating the majority of manufactured home loans financed as personal property.

Comments offered last year by the Arkansas Manufactured Housing Association on the advance notice of proposed rulemaking for the ‘Duty To Serve’ requirement stated that inclusion of personal property loans in the GSEs’ ‘Duty To Serve’ commitment was key to the success of any program offered by the Enterprises. Without consideration of personal property loans, the GSEs will not reach the majority of manufactured homebuyers in the very low-, low- and even moderate-income categories identified in HERA.

\* Another section of the commentary reads: *“Purchasing or guaranteeing chattel loans would require each Enterprise to develop operational capacities and risk management processes not currently in place.”*

This statement seems to accept the presumption that the GSEs are not currently, and have not in the past, accepted personal property loans. That presumption is incorrect. Both Fannie and Freddie have allowed the purchase of personal property loans in the recent past, and the GSEs have purchased not only asset backed securities collateralized by manufactured home loans but loans directly from lenders for their portfolios.

Is it not the responsibility - or in this case, even the duty - of government to seek innovative approaches to problems faced by its citizens? In fact, Section 1335 of the Safety and Soundness Act requires the Enterprises to “develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.”

The Agency’s justification of excluding personal property loans based on the required development of such capacities and processes simply ignores the ‘Duty to Serve’ requirement at its most basic levels.

\* Yet another section of the commentary states: *“Moreover, to ensure that such lending was done responsibly would require each Enterprise to develop an extensive set of consumer protection requirements.”* While it may be the opinion expressed in some (but not the majority) of the comments received on DTS last year, extensive consumer protections have little or no place in this rulemaking effort. It appears that certain advocacy groups are attempting to use this rulemaking as an effort to dictate onerous and burdensome requirements on the manufactured home industry that these advocacy groups have been unsuccessful in promoting through state or Federal legislative efforts.

It is our opinion that the Agency may lose sight of its mission to provide assistance to underserved markets by focusing on increased regulation sought by these advocacy groups. These issues should be vetted and considered on their merits as part of separate rulemaking or other legislative action.

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This organization's previous comments reminded the Agency of significant federal and state laws and regulations that offer consumer protections to manufactured home purchasers. The scope of these protections is broad - ranging from the regulation of transportation and installation of the home, to Truth In Lending Act protections, predatory lending statutes and, most recently, implementation of the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act. The majority of these protections apply equally to manufactured home purchases, whether the loans are personal property loans, 'land-home' purchases or real estate transactions.

\* *"In several states, manufactured homes cannot be titled as real property and, as a result, are not afforded certain borrower protections that apply when loans are secured by real property,"* according to the comments. Yet the footnote on this statement reveals that more than 40 states reportedly provide for conversion of manufactured homes from personal property to real estate. It is our opinion that these 40-plus states represent the vast majority of homes sold in the United States today.

Arkansas is among the states that allows for the retirement or cancellation of the title issued for securitization of a loan on a manufactured home affixed to real property, in accordance with the seller guidelines of the GSEs. The Arkansas General Assembly has re-visited other state statutes in recent years, making changes to state law governing the perfection of all types of personal property liens.

Arkansas also recognizes manufactured homes as 'real property' for the purposes of ad valorem taxation, making the state's 'Homestead Tax Credit' available to Arkansans who live in manufactured homes as their primary residence.

\* In another section of the comments, the Agency states: *"Although some manufactured home communities may include units owned by the community that are rented to tenants, manufactured home communities generally provide siting for chattel financed homes, and for the reasons discussed previously, the proposed rule would not allow for consideration for assistance to manufactured homes not titled as real property."*

Believing that our comments refuting the Agency's reasons for ignoring personal property loans from the 'Duty to Serve' rule are valid, this organization would remind FHFA that homes sited in manufactured home communities often represent the most affordable homeownership option for very low-, low- and moderate income families. The nature of these land-lease operations provide up-front cost savings to these homebuyers - who might otherwise be unable to afford the purchase price of land, necessary improvements and utility services, and other amenities that are provided in manufactured home community settings.

\* AMHA's comments on the ANPR stated that improved outreach by the GSEs to (and through) banks and other traditional lenders will be one of - if not the most - important ingredients in the success of the implementation of the DTS language remain true today. Without involvement by additional lending sources, the efforts of FHFA on the DTS mandate will almost certainly be fruitless.

### **CONCLUSION**

The manufactured home industry is seeking to be part of the solution - not part of the problem - in providing quality, affordable housing to Americans today. We come asking, not for a hand-out or a bail-out, but for equal consideration for our customers and parity in finance programs through the GSEs that will bolster single-family homeownership and help restore consumer confidence in the housing market.

**(MORE)**

*Mr. Alfred M. Pollard, Esq.*  
*General Counsel*  
*Federal Housing Finance Agency*  
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On behalf of the members of this industry and potential homebuyers in Arkansas, we respectfully request the Agency to act expeditiously to amend the proposed rule to fully address the Congressionally-mandated 'Duty To Serve' by:

- 1) including personal property loans and land-home financing;**
- 2) encouraging the development of innovative loan products and flexible underwriting guidelines;**
- 3) increasing outreach to traditional lenders; and**
- 4) setting reasonable program guidelines that provide attainable goals for homebuyers, lenders and the industry toward the accomplishment of the GSEs 'Duty to Serve' requirement.**

We look forward to working with the Agency toward the implementation of a final rule which will truly assist the low-to-moderate income families of our state in their pursuit of the American Dream of homeownership.

Thank you for your consideration of these comments and for your continuing efforts on this very important issue.

Respectfully submitted,



J.D. Harper  
Executive Director  
Arkansas Manufactured Housing Association

cc: Members of the Arkansas Congressional Delegation

Senator Blanche Lincoln  
Senator Mark Pryor  
Congressman Marion Berry  
Congressman Vic Snyder  
Congressman John Boozman  
Congressman Mike Ross