



MORTGAGE BANKERS ASSOCIATION

May 12, 2023

The Honorable Jon Ossoff
United States Senate
313 Hart Senate Office Building
Washington, DC 20510

The Honorable Marco Rubio
United States Senate
284 Russell Senate Office Building
Washington, DC 20510

Dear Senators Ossoff and Rubio:

The Mortgage Bankers Association¹ (MBA) thanks you for your introduction of the *Homes for Every Local Protector Educator and Responder (HELPER) Act*. We appreciate this opportunity to comment on the legislation in its current form. As you know, MBA remains part of a broad coalition of industry trade associations and consumer advocacy groups that support legislative efforts to reduce down payment barriers for first-time, first-generation, and minority homebuyers throughout our country.

The bipartisan, bicameral *HELPER Act* would create a first-time homebuyer loan program to be administered by the Federal Housing Administration (FHA) for teachers and first responders who have served at least four years in their respective roles. MBA commends your efforts to address barriers to homeownership for this heroic cohort of potential borrowers. Ensuring qualified homebuyers have access to resources to overcome challenges – such as building adequate resources for down payments – is critical to supporting a diverse, fair, and equitable real-estate market.

Importantly, the bill includes substantive changes from prior versions that incorporate feedback from both the Department of Housing and Urban Development (HUD) and MBA, including:

- **Upfront Mortgage Insurance Premium Flexibility**: The updated text would add flexibility to the 3.6 percent upfront mortgage insurance premium by changing it to an “amount that [may] exceed 3 percent” to minimize costs to borrowers while ensuring program solvency.
- **Maximum Loan Amount**: The updated text would limit the total loan amount to 100% of the house’s appraised value, consistent with FHA requirements. This will ensure that borrowers do not owe more on a home than its value at purchase, helping to protect borrowers and the FHA from losses. A borrower may still finance their up-front premium into the loan amount if sufficient funding remains.
- **FHA Loan Insurance**: The updated text would provide more protection to lenders by providing insurance for 100% of the loan through FHA.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation’s residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,200 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA’s website: www.mba.org.

- *Borrower Attestation*: The updated text would provide that borrowers would attest to their employment history in an eligible profession, good standing in their employment, and intent to remain employed in their eligible profession. This eases the burden on lenders and will encourage broader lender participation in the program. The updated text would also remove a requirement for annual lender certification that a borrower occupies the property as a principal residence, instead requiring certification at origination.
- *Employment Transition Flexibility*: The updated text would add flexibility to the four years of service requirement to account for transitions in employment under another eligible employer by instead requiring borrowers to have been employed in an eligible profession at least four of the previous five years before they applied.
- *Housing Counseling Requirement*: The updated text would make housing counseling from a HUD-certified housing counselor a condition of a loan under the program. Housing counseling from HUD-certified housing counselors is widely available across the country, sometimes free of cost, and may be offered in various forms to meet borrowers' needs. Completing pre-purchase counseling is a limited time commitment that will help prepare borrowers for success and help reduce risk to the program at a minimal cost.

Additionally, MBA recommends the following suggested change to encourage widespread lender participation once the contemplated new program is established.

Hold Harmless / "Safe Harbor" for Lenders

During the loan application and underwriting process, lenders comply with a multitude of federal and state laws and regulations to ensure that borrowers are treated fairly and that mortgages are underwritten in accordance with safety and soundness standards and, where applicable, agency or investor program guidelines. Lenders have established rigorous compliance processes to ensure that borrowers meet underwriting guidelines and program eligibility standards and are held accountable for compliance by investors and agencies overseeing federal mortgage programs.

The current construct of the bill allows the borrower to certify his or her eligibility with no clear or viable remedy should the information be inaccurate. Under a self-certification regime, it is critical that lenders not be penalized for reliance on these borrower attestations. Should a mortgage be closed, funded, and sold into the secondary market using this assistance, and it is later determined that the funds were not acceptable because the borrower did not accurately represent his or her program eligibility, lenders could be required to repurchase the loan, indemnify the agency, or remedy the associated shortfall.

If lenders are not protected in the event that this information is inaccurate, they will be much less likely to participate in this offering. It is for this reason that we believe the legislation, as it moves through the committee markup and floor consideration process, should include language that explicitly states lenders would be held harmless or granted safe harbor from any recourse should borrowers self-certify their program eligibility and later be determined ineligible. Without this protection, the lender participation so critical to this program's success would be difficult to sustain.

As a related note, MBA continues to support robust funding for housing counseling agencies to help qualified homebuyers meet the legislation's housing counseling and education requirements prior to entering into a sales purchase agreement or submitting a loan application via the contemplated program.

MBA stands ready to work with you, and all Senate and House members, to ensure a robust and inclusive housing market for teachers, paramedics, EMTs, law enforcement officers, and firefighters – one that is accessible, affordable, and works to benefit borrowers, renters, and all other critical stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Killmer", with a long horizontal flourish extending to the right.

Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: The Honorable Sherrod Brown, Chairman, Senate Committee on Banking, Housing, and Urban Affairs
The Honorable Tim Scott, Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs