



MORTGAGE BANKERS ASSOCIATION

June 26, 2024

The Honorable Derrick Van Orden
Chair
Subcommittee on Economic Opportunity
Committee on Veterans' Affairs
U.S. House of Representatives
364 Cannon House Office Building
Washington, D.C. 20003

The Honorable Mike Levin
Ranking Member
Subcommittee on Economic Opportunity
Committee on Veterans' Affairs
U.S. House of Representatives
364 Cannon House Office Building
Washington, D.C. 20003

The Honorable Mike Bost
Chair
Committee on Veterans' Affairs
U.S. House of Representatives
364 Cannon House Office Building
Washington, D.C. 20003

The Honorable Mark Takano
Ranking Member
Committee on Veterans' Affairs
U.S. House of Representatives
364 Cannon House Office Building
Washington, D.C. 20003

Dear Chairs and Ranking Members:

On behalf of the Mortgage Bankers Association (MBA)¹, I write to express the real estate finance industry's views on the Amendment in the Nature of a Substitute (ANS) to H.R. 8647, the *VA Home Loan Reform Act* scheduled for markup in the Committee on Veterans' Affairs' Economic Opportunity Subcommittee on Thursday, June 27. The bill, as amended, takes an important first step towards providing the Department of Veterans Affairs (VA) and affected homeowners with a solution to resolve delinquencies that other borrowers with government-backed loans already possess. Veterans rightly deserve the same protection and assistance as other homeowners.

According to the MBA National Delinquency Survey, 74,370 Veterans are seriously delinquent on their home mortgages as of December 31, 2023. To help these Veterans and their families MBA has consistently called on Congress to authorize and fund a permanent partial claim program for the VA Home Loan Program. A partial claim allows a delinquent borrower to either: (1) resume regular loan payments following a period of forbearance, or (2) achieve a sustainable level of payment reduction when combined with a loan modification. The partial claim clearly established by this proposal would complement other loss mitigation options under the existing authority of the VA Secretary. A permanent partial claim program will provide comprehensive relief for those Veterans who need assistance, while sustaining the VA Home Loan guarantee's viability for all Veterans.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 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 2,000 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.

While MBA supports the legislation's authorization of a permanent partial claim, we are concerned that certain provisions of the ANS, as drafted, will adversely affect Veteran homeowners, mortgage servicers, and the VA.

First, the required repayment plan in Section 3(c) imposes hurdles that may negatively impact a Veteran's benefit of obtaining a partial claim. These changes may be motivated by a desire to generate revenue from a partial claim through interest income, but VA will recoup the initial outlay the vast majority of the time as a partial claim requires a Veteran to repay their arrearage at payoff, refinance, or maturity of the underlying first lien mortgage.² Furthermore, once a Veteran obtains a partial claim they return to paying interest on their original loan amount with the same loan duration – an outcome of benefit to both the Veteran and the loan holder. MBA therefore urges amendments to the bill to achieve and maintain parity with other federal housing programs.

More specifically, MBA believes that Section 3(b)(1) and 3(c) of the current ANS, which requires a borrower to agree to enter a monthly repayment within one year of receiving the partial claim funds or face potential interest (0.5%) for failing to do so, **should be removed from the legislation**. While the terms of repayment are undefined, such a provision is not in the best interest of the Veteran borrower and creates unnecessary risk. By definition, a repayment plan does not help borrowers return to the same, if not better, financial position than before their financial hardship.³ Requiring a borrower – recently recovered from a financial hardship - to pay an additional sum impairs affordability and increases the risk the borrower will redefault in the future. Put simply, a repayment plan is not a sustainable loss mitigation tool for borrowers.⁴

Additionally, creating a repayment plan raises complications around how to treat the (otherwise performing) first lien mortgage if the borrower is delinquent on the repayment plan. Because the borrower's obligation to repay the partial claim is to the VA, borrowers could unnecessarily face the risk of foreclosure if a borrower defaults on the subordinate lien. Additionally, to ensure there is sufficient infrastructure to service a repayment plan, the VA would also need to pay for and manage a complex payment processing operation to collect the interest paid on the partial claims, which could cut into the revenue generated under this approach. As drafted, the application of Section 3(e)(1) places this burden inappropriately on servicers. **To address these issues, MBA suggests defining a partial claim as a subordinate, non-interest-bearing junior lien that does not require repayment during the mortgage term**, similar to the FHA program's partial claim or the housing Government Sponsored Enterprises' (Fannie Mae and Freddie Mac) payment deferral.

Second, MBA believes the ANS should specify that a partial claim is not a claim against the guaranty. The loan guaranty is a fundamental statutory protection against the risk of default a lender receives at loan termination. Currently, the ANS to H.R. 8647 defines a partial claim as a purchase of a portion of the indebtedness to resolve a default, consistent with VA's existing purchase authority that allows VA to pay a claim before loan termination. Paying the guaranty portion before termination will adversely affect credit losses for lenders and servicers, and because of the impact on Ginnie Mae security pricing, would also adversely impact affordable financing for Veterans in the future. To address this

² The average life of a mortgage loan is under 7 years, which will fluctuate with market interest rates.

³ An interest penalty – while nominal - also creates the risk of negative amortization creating a greater financial burden to the Veteran than underlying delinquency itself.

⁴ According to MBA data, repayment plans for first lien have the highest redefault rate across loss mitigation products.

concern, **we recommend that the bill affirmatively state the guaranty cannot be used to fund a partial claim and that, instead, it is a direct purchase of a portion of the indebtedness.**⁵

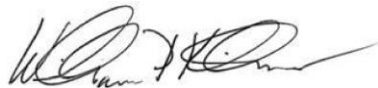
Third, section (3)(d)(1) limits the amount of a partial claim to not exceed 20 percent. This arbitrary cap places Veterans at a disadvantage to other borrowers who may receive a partial claim up to 30 percent of their loan amount. Veterans should not receive less assistance simply because their loan is supported by a VA loan guarantee of 25 percent as the partial claim does not impact the guarantee. **This limitation should be removed.** If enacted, the legislation (as currently drafted) would serve to reduce loss mitigation assistance Veterans were able to receive during the COVID-19 pandemic.

Fourth, section 2(1)(B) authorizes the Secretary to implement a “mandatory sequence” of loss mitigation procedures. A mandatory sequence – embedded in statute – would require mortgage servicers to offer and implement loss mitigation solutions that are not viable – and not always in the best interest of a Veteran – to comply with the law. Such solutions could significantly affect credit access and increase costs, particularly if these VA-required solutions are not also followed by reimbursement from the agency. While the legislative intent seems to be aligning the loss mitigation “waterfall” of the VA Home Loan Program with the FHA, the use of the term “mandatory” exceeds FHA’s authority under Title 12 Section 1715u. **MBA believes the committee should strike the term “mandatory” from Section 2(1)(B) of the bill.**

MBA appreciates that the subcommittee is taking these initial steps to advance housing-related relief to Veterans. We look forward to ongoing dialogue with the engaged Members and staff – on both sides of the aisle – to further refine and improve the bill prior to its full committee markup and eventual House floor consideration.

Thank you in advance for your consideration of the views expressed within this letter.

Sincerely,



Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: All Members, House Committee on Veterans' Affairs

⁵ Without explicit text, Ginnie Mae issuers with loans that completed a VA partial claim would be ineligible for a Ginnie Mae security immediately upon passage of the bill. Per Ginnie Mae MBS Guide (Chapter 24, Section 3 (a)), an Issuer must maintain adequate guarantee for VA loans to be eligible for a security. As drafted, the ANS further exacerbates liquidity constraints in a high-delinquency market. In turn, Veterans looking for future home financing opportunities would be potentially impacted with higher pricing.