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MORTGAGE BANKERS ASSOCIATION

February 27, 2024

The Honorable Jon Tester
Chairman
Committee on Veterans Affairs
412 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Jerry Moran
Ranking Member
Committee on Veterans Affairs
412 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Tester and Ranking Member Moran:

On behalf of the Mortgage Bankers Association (MBA)[1], I write to express our support for S. 3728, the *Veterans Housing Stability Act of 2024*. According to the MBA National Delinquency Survey, 74,370 Veterans are seriously delinquent on their home mortgages as of December 31, 2023. The bill provides these homeowners – who earned their Department of Veterans Affairs (VA) loan guarantee through sacrifice and service to our nation – a solution to resolve delinquency that other borrowers with government-backed loans already possess.

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, such as a servicing purchase program for delinquent loans.

In addition to our association's commentary on the legislation, the MBA also encourages you to hold a hearing on this important legislation – along with the need for additional home retention solutions – before the current VA voluntary foreclosure moratorium expires on June 1, 2024.

As Senators look for ways to improve the legislation further, one important additional concern is that the bill does not authorize dedicated funding to implement a permanent partial claim program. For decades, Congress has imposed additional fees on Veterans who use the VA Home Loan Program to pay for other priorities. Ironically, while cross-subsidizing other agency programs in this manner, the VA Home Loan Program has itself been persistently underfunded.

[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 2,000 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.

By way of example, during the VA's temporary Coronavirus Veterans Assistance Partial Claim Program (COVID-VAPCP), the agency was unable to build the necessary information technology infrastructure to effectively manage the volume of claims received. In turn, these major backlogs in processing claims led to severe delays in reimbursing mortgage servicers for the funds they advanced to clear customer arrearages at the government's behest.

Put succinctly, a permanent partial claim program must have an assured funding stream to cover these operational costs. Therefore, as the legislation progresses, and you have obtained cost estimates, MBA urges you to incorporate this essential funding need within your committee's consideration of the bill. As you both currently serve on the Senate Appropriations Committee, MBA also urges you to support funding for any increase in the VA Home Loan Program's allocation needed for this purpose within an emerging Fiscal Year 2025 Military Construction, Veterans Affairs, and Related Agencies Appropriations Act.

In addition to authorizing a permanent partial claim program, the legislation revises Title 38 Chapter 37 of the U.S. Code to align VA loss mitigation tools with those provided to the Federal Housing Administration (FHA) at Title 12 Chapter 13. However, while uniformity is useful to Veterans and mortgage servicers alike, in some instances the bill's provisions exceed the scope of existing FHA authority, and in others, the removal of certain unique aspects of the VA Home Loan Program is unwarranted. Each of these provisions should be carefully reviewed as your committee moves forward with consideration of the legislation, as follows:

First, Section 2(a) of the bill expands the authority of the Secretary of Veterans Affairs to declare a foreclosure moratorium based on a "widespread and significant crisis as determined by the Secretary." MBA believes this is an overly broad expansion of the Secretary's authority and could expose mortgage servicers to costs more than the maximum claim guaranty on a VA home loan. **Accordingly, we believe the committee should either strike this section <u>or</u> substantially narrow the Secretary's new authority – while including a mandatory reimbursement requirement for the costs of advances above the guarantee resulting from a declared foreclosure moratorium.**

Second, Section 2(c) imposes the potential for levying additional civil money penalties on mortgage servicers working to help Veterans avoid foreclosure. Existing penalties available to the government under the False Claims Act are already an effective deterrent and ensure the integrity of the VA Home Loan Program. Moreover, by way of comparison, VA does not provide the same level of formal guidance to its program participants <u>or</u> possess administrative enforcement structures like those utilized by FHA.

In an environment where congressionally appropriated funding for the VA Home Loan Program is uncertain, and overall levels of funding for the VA are inadequate, the authority to impose new penalties on mortgage servicers could become a tempting source of revenue via non-appropriated funds. Without any evidence of a loss on a loan, the VA could attempt to collect $27,894 for any perceived violation of the VA handbook, which has not been updated in the past five years. **MBA strongly believes the committee should strike Section 2(c) of the bill.**

Third, Section 2(d) authorizes the Secretary to implement a "mandatory sequence" of loss mitigation procedures. A mandatory sequence – embedded in statute – will 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 of Section 2(d) 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(d) of the bill.**

MBA urges this committee to quickly consider S. 3728 and concurrently hold an appropriate oversight hearing to thoroughly examine VA's Home Loan Program loss mitigation options. MBA appreciates your consideration of the recommendations for improvement to the bill outlined here. Our association – and its members that originate, service, and securitize VA Home Loan Program mortgages – will continue to work with the agency, this committee, and other key stakeholders to ensure Veterans and their families have access to more affordable, sustainable homeownership opportunities.

Sincerely,

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