



MORTGAGE BANKERS ASSOCIATION

July 11, 2023

The Honorable Tom Cole
Chairman
Committee on Rules
U.S. House of Representatives
2207 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim McGovern
Ranking Member
Committee on Rules
U.S. House of Representatives
370 Cannon House Office Building
Washington, DC 20515

Dear Chairman Cole and Ranking Member McGovern:

On behalf of the Mortgage Bankers Association¹(MBA), I am writing to express our views regarding potential real estate finance-related amendments under consideration within H.R. 2670, *the National Defense Authorization Act for Fiscal Year 2024*, which is scheduled to be considered by the Committee on Rules this afternoon.

MBA supports the following submitted amendments:

Amendment #562

MBA strongly supports this amendment offered by Representatives Armstrong (R-ND), Dean (D-PA), Turner (R-OH), and Escobar (D-TX), which would authorize every notary to use remote online notarization (RON) and create national standards and protections on its use. We supported this same amendment, which previously passed the House of Representatives as a part of the Fiscal Year 2022 (FY22) National Defense Authorization Act (NDAA). The text of the amendment is taken from H.R. 1059, the *SECURE Notarization Act*, which passed the House via voice vote earlier this year. This measure would benefit members of the military who are deployed overseas, permitting servicemembers to finalize important financial documents safely and conveniently. Forty-four states and the District of Columbia have already recognized these benefits by enacting laws authorizing the use of RON, and current or future state laws meeting the national minimum standards will supersede this federal law.

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.

Amendment #283

MBA supports this amendment offered by Representative Sherman (CA), which modifies requirements for appraisers of Federal Housing Administration (FHA)-insured mortgages by allowing an appraiser for a mortgage for single-family housing to be state-licensed rather than state-certified to meet requirements. If enacted, it would allow more appraisers practicing in the field today to become eligible to conduct real estate evaluations on properties subject to mortgages insured by the FHA.

In July 2008, the *Housing and Economic Recovery Act* (P.L. 110-289) was signed into law and prohibited state-licensed residential appraisers from continuing to participate in FHA-insured transactions by limiting evaluations to only certified appraisers. While the statutory change was designed to protect FHA during a time of significant economic stress, it has had a negative effect on residential markets over the longer term, especially in difficult-to-access rural areas. In the current market, the lengthy processing times and high costs due to a lack of appraisers reduce the efficiency of the loan origination process for FHA-insured loans. Rising appraisal costs in recent years have largely been attributed to appraiser shortages in certain locations, especially rural areas.

This legislation would allow lenders to address supply shortages by expanding their appraiser pools, which in turn would reduce consumer costs and shorten delays that have occurred in many markets. More broadly, the enactment of this amendment could create a more efficient residential mortgage market for lenders and consumers by expediting valuations and lowering closing costs.

MBA urges you and your committee colleagues to support the inclusion of these worthy amendments as part of this week's NDAA floor debate.

MBA withholds support or opposes the following submitted amendments:

Amendment #60

MBA is troubled by the potential inclusion of this amendment offered by Representative McHenry (NC), which would strengthen Title V of the Gramm-Leach-Bliley Act (GLBA) to include a number of new consumer protections. The text of the amendment is taken from H.R. 1165, the *Data Privacy Act of 2023*, which was passed by the House Financial Services Committee (HFSC) earlier this year. As currently drafted, the amendment contains several provisions that raise concerns for our members.

MBA is concerned that the scope for establishing a federal standard for preemption within the amendment text is too narrow in its current form. MBA supports efforts to create a single data security and privacy standard that sets clear expectations for the industry. However, while the bill preempts state laws on the collection, disclosure, access, and deletion of personal information, it does not completely preempt existing state laws limiting the use of personal information. MBA recommends the legislation

make clear and explicit that state law limiting the use of personal information should be fully preempted.

While MBA supports the exemptions to delete data within the amendment text, the bill should also include exceptions for retention of data used in consumer disputes or to evidence compliance with other federal regulations. In the current version, such an exemption exists for Fair Credit Reporting Act (FCRA) disputes but should be extended to include all disputes and relevant regulations. For instance, under the Ability to Repay (ATR) and Qualified Mortgage (QM) rules, a creditor must make a reasonable, good faith determination of a consumer's ability to repay their loan and maintain evidence of compliance. Additionally, MBA recommends there should be an exemption from deletion for contractually required information retention. Separately, instead of requiring deletion of personal information after one year, MBA further recommends that the bill should only require deletion after a set number of years or according to a reasonably disclosed corporate policy.

The GLBA construct has worked well for business entities and consumers because it provides a scalable and flexible framework for covered entities to utilize in their attempts to comply. A clear reading of the amendment text reveals there is no new enforcement mechanism within this most current version of the legislation. MBA opposes any private right of action that may be offered going forward.

Rather than as part of the current NDAA debate, MBA strongly encourages all House committees with jurisdiction over this important topic to engage in further dialogue with industry and policymakers in order to help create a robust data privacy regime that works for both consumers and lenders.

Amendment #715

MBA opposes this amendment offered by Representative Green (TX), which would require Fannie Mae and Freddie Mac (the GSEs) to amend the Uniform Residential Loan Application (URLA) to change the placement of the question regarding a mortgage applicant's military service. This provision, if enacted, would lead to significant costs for mortgage industry participants in connection with benefits that are unclear at best and nonexistent at worst.

The provision would require the GSEs to include a question on a mortgage applicant's military service in the URLA, even though this question already is present on the form. The provision also would require the GSEs to change the placement of the military service question on the URLA. Such a requirement would lead to another re-design of a form that was the subject of a recent multi-year re-design that entailed significant time, energy, and resources on the part of both federal agencies and industry participants.

This process, which concluded in March 2021, featured 18 months of testing and limited production pilots to integrate the new URLA, which followed several years of work by the FHFA and the GSEs to seek stakeholder input and develop the re-designed form. To revisit this process so shortly after its completion would be a poor use of government and industry resources. Additionally, the share of the single-family market comprised of loans guaranteed by the Department of Veterans Affairs (VA) has grown significantly over the past decade – from 4% in 2010 to nearly 11% in 2020. In the months since the new URLA has been in effect, the VA share of new mortgage applications has remained strong. Together, these data points indicate that the VA market is robust, and the current design of the form is not impeding borrower access to, or awareness of, VA-guaranteed loan offerings.

MBA encourages you and your committee colleagues to withhold support for these two amendments as part of this week's NDAA floor debate.

Conclusion

Thank you in advance for your consideration of the views expressed within this letter. We greatly appreciate your attention to these comments and stand ready to work with all Members of Congress to ensure a robust, just, equitable, inclusive, and economically sound housing market – one that is accessible, affordable, and works to benefit all servicemembers, borrowers, renters, and other critical stakeholders.

Sincerely,



Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: The Honorable Patrick McHenry
The Honorable Maxine Waters
All Members, U.S. House of Representatives