April 7, 2008

Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representative:

We are writing on behalf of the American Securitization Forum ("ASF")[1] and the Securities Industry and Financial Markets Association ("SIFMA") [2] to urge you to oppose H.F. 3612, the Minnesota Subprime Foreclosure Deferment Act of 2008.

We firmly agree that efforts to prevent foreclosure and preserve home ownership wherever possible have become essential in the current housing environment. Preventable foreclosures are not in anyone's best interest, as the homeowner, neighborhood, lender and investor all lose when a preventable foreclosure occurs. As such, lenders and servicers of mortgage loans have been proactively reaching out and working with borrowers to keep as many as possible in their homes. In that process, they have completed over a million workouts and loan modifications nationwide since last summer.

Over a dozen bills working their way through the Minnesota legislature with bipartisan support will also help to reduce the number of preventable foreclosures statewide. Unfortunately, the Minnesota Subprime Foreclosure Deferment Act of 2008, by rewriting existing contracts, will have detrimental consequences to borrowers, lenders and institutional investors. Aimed at subprime mortgage borrowers, this particular bill

[1] ASF is a broad-based professional forum of over 375 organizations that are active participants in the U.S. securitization market. Among other roles, ASF members act as issuers, investors, financial intermediaries and professional advisers engaged in the financing and securitization of residential mortgage loans throughout the United States. ASF's mission includes building consensus, pursuing advocacy and serving as an informational and educational resource on behalf of the multi-trillion dollar securitization market in the United States. Additional information about ASF, its members and activities may be found on ASF's website, located at www.americansecuritization.com.

[2] SIFMA brings together the shared interests of more than 650 securities firms, banks, and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services, and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. It has offices in New York, Washington D.C., and London. Its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

proposes to allow certain borrowers to stay in their residences for up to one year after all workout options have been exhausted and a foreclosure process has been initiated. During that year, the proposed legislation would also allow most of these subprime borrowers to enjoy a 35 percent reduction in their monthly mortgage payment obligations.

Although there is emotional appeal to reducing obligations for some troubled borrowers who are unable to pay their mortgages, the process of reducing those obligations via legislation creates a host of unintended consequences that will ultimately hurt all Minnesotans.

First, the bill, if enacted, would significantly erode the confidence that lenders and investors have in the stability of contracts in Minnesota, as the bill would explicitly change the terms of the applicable contracts after the fact. This confidence is the bedrock on which all consumer credit is extended by lenders to borrowers, whether for mortgages, credit cards, student loans or auto loans. The need for this bedrock assumption of credit is simple—if one person loans money to another, the lender should have confidence that the borrower will be required to pay back the principal and interest on the loan in a timely fashion, and that the lender will be able to exercise remedies available to it in case the borrower defaults. If these commercial expectations are undermined via legislation, lenders will obviously be much more reluctant to loan money. But even if they choose to lend with less legal confidence, they would certainly charge higher rates to compensate for the higher risks that they wouldn't be paid back as specified when the contract was made.

As such, if the Minnesota legislature were to pass the Subprime Foreclosure Deferment Act of 2008, all Minnesotans would bear substantially greater costs and find fewer opportunities for affordable mortgages in a market where it is already becoming difficult for some borrowers to access mortgage credit at all. The impact would be felt even more keenly in areas where home prices are declining and/or local economic conditions are poor. The effect would be most pronounced for subprime borrowers, the very segment the bill attempts to help, whose risky credit profiles pose the greatest risk for entering foreclosure during the life of their mortgage.

The second major unintended consequence is that the loss of revenue from the reduced payments and the costs of foreclosure delays would translate into losses for investors in mortgage-backed securities (MBS). Most subprime mortgage loans were pooled together and sold as MBS to institutional investors such as 401k plans and public and private pension funds, who invest on behalf of individuals and own the rights to those mortgage payments. By purchasing MBS, these institutional investors return capital to lenders, who are then able to make more loans to future homeowners. By reducing the stream of payments on the mortgage loans, the proposed bill would devalue the securities backed by those loans. In addition to this devaluation of existing securities, many investors may decide not to purchase MBS in the future but, instead, seek alternative investment opportunities where they do not face the risk of contract impairment.

The net effect of the bill then is to pull value from retirement accounts, among other pooled investment vehicles, in order to temporarily benefit subprime borrowers who are experiencing difficulty meeting their obligations, with the added negative effect of drying up affordable credit to ALL Minnesotans who are looking to either refinance into a better mortgage product or finance a first-time home purchase. Although the aim of the proposed act is laudable, the ultimate outcome will be to hurt the very segment of the borrower population the legislation seeks to help.

For the foregoing reasons, we urge you to oppose H.F. 3612, the Minnesota Subprime Foreclosure Deferment Act of 2008. Thank you for your consideration of our views on this important legislation. For additional information on this issue, please contact Tom Deutsch at 212.313.1135 or at tdeutsch@americansecuritization.com or Scott Defife at 202.962.7300 or at sdefife@sifma.org.

Sincerely,

Tom Deutsch
Deputy Executive Director
American Securitization Forum

Scott Defife
Senior Managing Director, Government Affairs
Securities Industry and Financial Markets Association