

April 28, 2014

Dear Chairman Johnson and Ranking Member Crapo,

The undersigned trade associations representing the entire spectrum of participants in the housing finance system are writing today to encourage your support for the amendment to S. 1217 put forth by Senators Toomey and Coburn which defuses once and for all the threat posed by a new eminent domain scheme which could devastate investor confidence in our mortgage markets. Numerous communities across the country are considering entering into an agreement with an investment fund that envisions using a municipality's eminent domain power to acquire performing but underwater mortgage loans held by private-label mortgage-backed securities (PLS) and then refinance the loans through programs administered by the Federal Housing Administration (FHA). We believe these actions would severely impact the return of private capital to the mortgage markets, and would therefore undermine any chance of success of the new system as envisioned in S. 1217.

Our organizations are sensitive to the plight faced by many homeowners across America, especially those in communities hardest hit by the housing crisis. Since 2007, the mortgage industry has completed more than six million permanent loan modifications, including more than one million loans through the Treasury Department's Home Affordable Modification Program. Combined with the more than one million short sales, the total number of permanent, foreclosure-avoiding solutions now stands above 7.2 million.

While we support a broad range of programs to assist struggling homeowners and the communities in which they reside, we are firm in our belief that using the power of eminent domain in this manner would harm our nation's housing markets and the very communities it is intended to help.

Some will argue that eminent domain is a "local issue", and that the Federal government should not get involved. We believe the opposite – that this proposed use of eminent domain is a national concern, and it should be a key focus of all federal officials and members of Congress concerned with the housing markets and the broader economy. As Senators Toomey and Heitkamp wrote in a letter to Secretaries Donovan and Lew last November, "the Administration has been largely silent on the subject...[e]minent domain may be a local matter, but in the context of seizing mortgages, its use would have national consequences." The bipartisan letter goes on to state that "the 'wait and see' approach of the Administration [is] flawed. Action is needed now to provide certainty to the housing market and protection to taxpayers." We agree wholeheartedly and urge you to support the Toomey-Coburn amendment.

Signed,

Securities Industry and Financial Markets Association
American Bankers Association
American Council of Life Insurers
American Insurance Association
American Land Title Association
Association of Mortgage Investors
Credit Union National Association
The Financial Services Roundtable
The Housing Policy Council
Independent Community Bankers of America
Investment Company Institute
National Association of Homebuilders
Structured Finance Industry Group
U.S. Chamber of Commerce

Cc: Members of the Senate Committee on Banking, Housing, and Urban Development