

Congress of the United States
Washington, DC 20515

November 7, 2012

Federal Housing Finance Agency
Office of the Director
1700 G Street NW
Washington, D.C. 20552-0003

Dear Acting Director DeMarco,

We write as members of the New York congressional delegation to express grave concern about the Federal Housing Finance Agency's recent proposal, *Federal Register* Notice [No. 2012-N-13], to increase the fee paid by home buyers in five states in order to guarantee Government Sponsored Enterprise (GSE) mortgages, also known as the G-fee. This proposal would single out New York for a very sharp G-fee increase – the largest increase among all states included in this proposal. We believe this proposal is unfair and unjustified.

Unfairly Penalizes New York for Having Strong Consumer Protections

New York has some of the strongest consumer protections in place across the country in order to provide struggling borrowers the opportunity to contest wrongful foreclosures, seek loss mitigation and stay in their homes rather than move quickly to foreclosure. These protections arose in the wake of the financial crisis and followed revelations of abuses that resulted in many wrongful foreclosures.

Unfortunately, it appears New York is being unfairly penalized for these added consumer protections. It appears that the FHFA justifies a higher G-fee by looking only at the length of the foreclosure timeline in each state, rather than overall foreclosure levels, the outcome and the benefits to homeowners, communities and investors. This rationale contradicts past FHFA policies which supported slowing the foreclosure process down to ensure struggling borrowers can pursue other options such as mortgage modification and short sales. Moreover, it can be more expensive for all parties involved to immediately pursue foreclosure rather than consider opportunities for loss mitigation. Oftentimes, if loss mitigation occurs soon after the initial delinquency phase, it can, in fact, reduce costs to the GSEs. Yet, the FHFA is penalizing New York for providing homeowners more cost-effective options to avoid foreclosure.

The Rationale behind G-Fee Increase is Deeply Flawed

In addition to unfairly penalizing New York for enforcing strong consumer protections during the foreclosure process, the FHFA's rationale behind the proposed G-fee increase appears short-sighted. While New York is a judicial foreclosure state and therefore has a longer foreclosure timeline relative to other states, the FHFA's proposal ignores the fact that it also has a lower rate of foreclosure than other states that will not face an increase in the G-fee. According to Realty Trac, 1 in 2,500 New York homes are in foreclosure compared to states like Arizona and Nevada where the numbers average roughly 1 in 350. Homes in these states are roughly seven times more likely to go into foreclosure than in New York. The proposal also ignores the fact that it was the actions of some mortgage servicers through highly publicized scandals such as robo-signing, chain of title problems, and other illegal actions, which artificially reduced the

foreclosure timelines in some states. The proposal will penalize borrowers in states that provide a judicial process to settle disputes between those borrowers and their lenders.

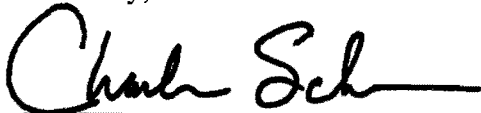
Furthermore, we believe that instead of reflecting the characteristics of today's housing market, the proposal is based on conditions present during the financial crisis and therefore penalizes new borrowers. Over the past four years, credit quality has significantly improved and overall loan volume has decreased. With housing prices stabilizing, troubled borrowers are more likely able to sell properties in today's market than they were during the crisis when housing prices were artificially inflated. As conditions in the housing market improve, risks to the ability of GSEs to provide guarantees should continue to decline.

An Unjustified G-Fee Increase Could Hurt the Struggling Housing Industry

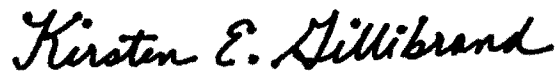
Finally, we believe that the proposal could have a negative impact on our recovering housing market both in New York and nationally. While recent census data reflect increases in home prices, sales and construction in the national single family housing market, we fear that this additional fee could undermine these positive trends, rather than encourage an ongoing recovery. Moreover, New York's housing market recovery is still nascent. At a time when qualified potential borrowers should be encouraged to take advantage of historically low mortgage interest rates, the proposed G-fee increase could affect monthly payments in a way that might deter new home sales.

The GSEs were created to help foster a national mortgage system, and since then, have helped create liquidity for lenders who operate across state lines. We understand that the GSEs must manage the risks associated with guaranteeing the loans they purchase. However, we do not believe that the current proposal adequately considers the full scope of risks faced by the GSEs, but rather unfairly singles out a handful of states simply because they provide strong consumer protections to borrowers. FHFA should instead work to reinforce national servicing standards and to realign incentives so that all borrowers can be assured timely and fair foreclosure proceedings.

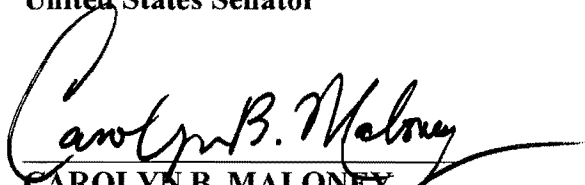
Sincerely,



CHARLES SCHUMER
United States Senator



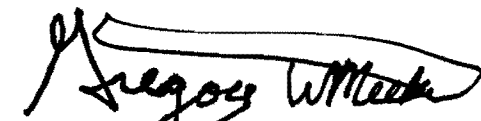
KIRSTEN GILLIBRAND
United States Senator



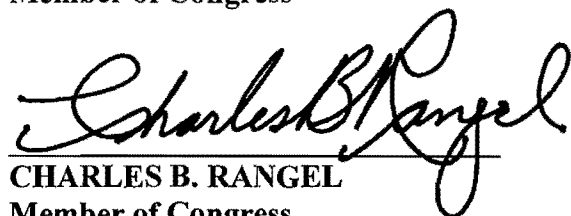
CAROLYN B. MALONEY
Member of Congress



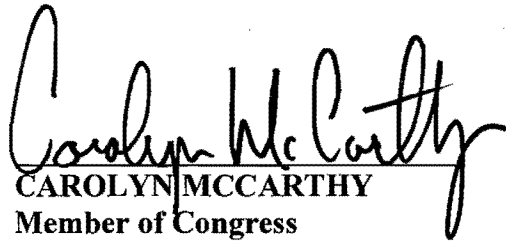
GARY L. ACKERMAN
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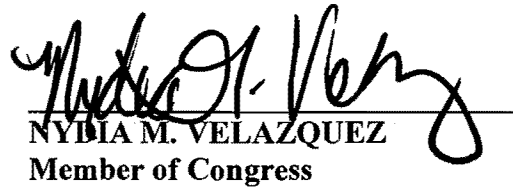


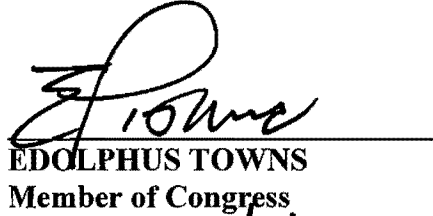
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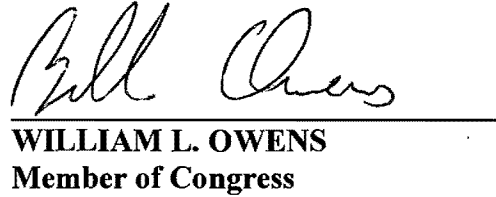


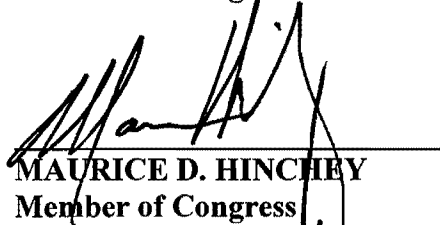
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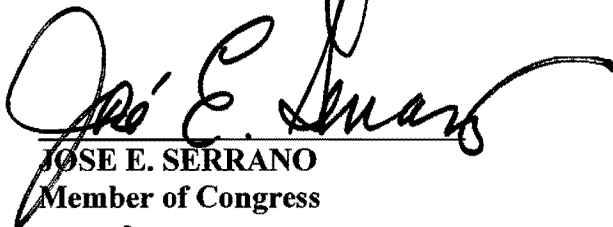

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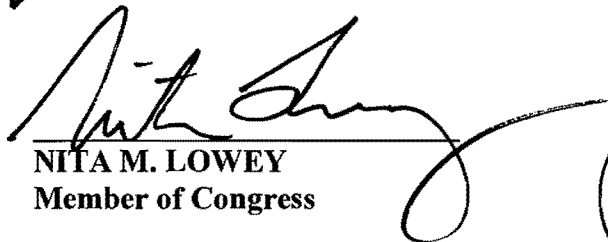

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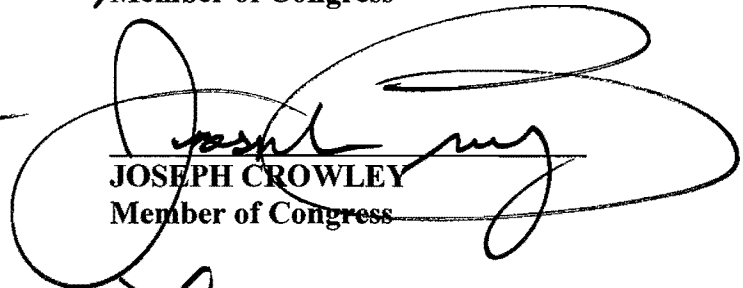

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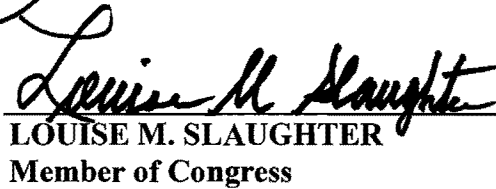

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