

# Congress of the United States

Washington, DC 20515

April 17, 2024

President Joseph R. Biden  
The White House  
1600 Pennsylvania Ave, NW  
Washington, DC 20500

Dear President Biden:

We want to thank you for your ongoing commitment to addressing our nation's housing affordability crisis, as you highlighted during your State of the Union address. We very frequently hear about the cost of housing from our constituents, and we're concerned that too many Americans are burdened by the high cost of housing. Access to safe and affordable housing is essential to the well-being of working families and individuals throughout the country. We're committed to working with your administration to support policies that will increase the housing supply of all types and price points to ensure that all Americans can achieve the dream of homeownership.

However, we were troubled by one announcement during the speech to eliminate title insurance on federally backed mortgages and the subsequent announcement of a title waiver pilot from the Federal Housing Finance Agency (FHFA). According to documents from FHFA, this pilot program would shift the title risk on refinance loans purchased by the Government Sponsored Enterprises (GSEs) from state-regulated title insurance companies to the GSEs themselves, moving far beyond their chartered responsibilities<sup>1</sup>. A similar pilot program was abandoned last year after considerable concern was raised on a bipartisan basis and from industry experts. Former Acting FHFA Director during the Obama Administration and current President of the Housing Policy Council, Ed DeMarco, stated during a May 17, 2023, hearing, "It certainly is disturbing to think that Fannie Mae or Freddie Mac might displace title insurance by taking on this insurance itself... Frankly, the GSEs simply do not belong in the primary market."<sup>2</sup>

While well-intentioned, this pilot program will not address the true issue of housing affordability in our communities and puts homebuyers at risk. Title insurance has a proven track record of protecting consumers and lenders for over a century. For a one-time, up-front fee, consumers and lenders are protected against future title defects and can rest assured that their largest investment and wealth generator is safe.

Title insurance professionals halt fraudulent real estate transactions such as impersonation scams, elder financial exploitation, and attempts to defraud spouses, partners, or other property heirs. Under the new program, consumers and lenders will be forced into a completely experimental claims resolution process with the GSEs, ultimately risking being forced into property sale or foreclosure. Consumers and lenders won't have the benefit of consumer protection obligations under the highly regulated title insurance claims resolution process mandated by states.

Additionally, loans eligible for the title acceptance pilot program must be "low-risk" refinance loans that have already paid off 20% of their loan. This means this program will primarily favor wealthier homeowners not purchasing their first home. It does nothing to reduce costs for first-time and low-income homebuyers.

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<sup>1</sup> <https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Title-Acceptance-Pilot-FAQs.pdf>

<sup>2</sup> <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408776>


While we must find ways to lower housing costs, allowing the GSEs to assume unnecessary risk outside their core mission, possibly violating their charters, is not the path we should take. Fannie Mae and Freddie Mac have been under federal conservatorship since the last time they took on too much risk and helped create the 2008 financial crisis. We cannot afford to repeat the mistakes of the past. While we work to address the nation's housing affordability crisis, the GSEs must stick to their core mission of providing liquidity and stability to the mortgage market. Expanding into new, primary market lines of business and acting as an insurer while in conservatorship goes well beyond what the Enterprises are permitted to do and puts taxpayers at great risk.

Finally, we have heard from small title businesses in our communities about what this pilot program means for their jobs. According to the American Land Title Association, over ninety percent of the title industry is comprised of small businesses. We're very concerned with the notion of empowering two large corporations, currently under federal conservatorship, to push aside small businesses in our communities that take pride in helping their neighbors protect their homes.

We encourage your administration to continue to focus on efforts that will truly increase the supply of affordable housing and bring down prices in our communities – and we look forward to working with you to that end. The proposed title waiver pilot misses that mark, and we ask that you reconsider moving forward. While we understand the enormity of the housing affordability crisis, shifting risk from the well-regulated title insurance industry to the GSEs and pushing small businesses out of the real estate ecosystem is not the right path forward to address that crisis.


Thank you very much, and we look forward to working with you.

Sincerely,



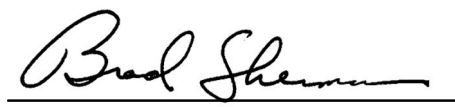
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Wiley Nickel  
Member of Congress



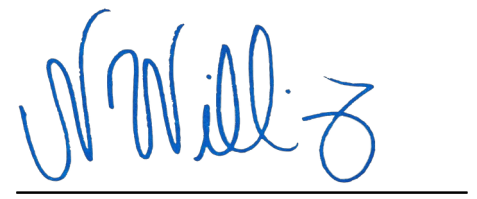
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Josh Gottheimer  
Member of Congress



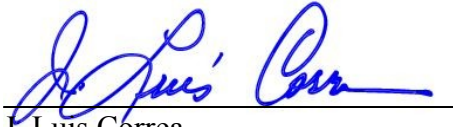
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Brad Sherman  
Member of Congress  
Ranking Member, Subcommittee  
on Capital Markets



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Nikema Williams  
Member of Congress



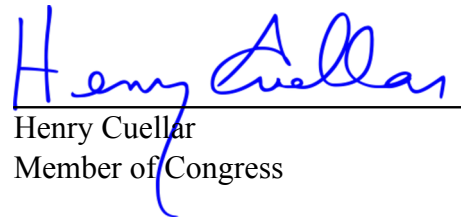
J. Luis Correa  
Member of Congress



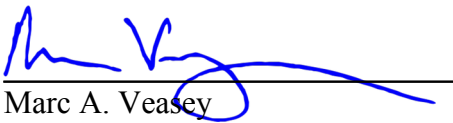
Vicente Gonzalez  
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Angie Craig  
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Deborah K. Ross  
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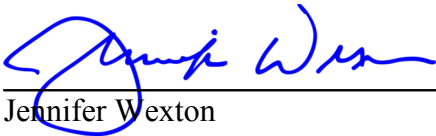
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Jim Costa  
Member of Congress



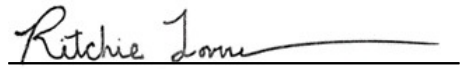
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Joe Courtney  
Member of Congress



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Jennifer Wexton  
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Ritchie Torres  
Member of Congress