



2005

ADVOCACY

AGENDA

The Mortgage Bankers Association's (MBA) 2005 Advocacy Agenda includes policy initiatives that will help ensure our industry's continued investment in our nation's communities through the financing of single-family homes, multifamily properties and commercial developments. The real estate finance industry strengthens our nation's economy by stabilizing markets, creating jobs, revitalizing communities and expanding housing opportunities for all Americans.

Our policy priorities in the year ahead will allow our members to continue to provide the investment capital needed for our nation's economy to grow and prosper.

MBA represents over 2,900 real estate industry firms that finance 70 percent of residential and 50 percent of commercial mortgages in the country.

GOVERNMENT SPONSORED ENTERPRISES (GSEs)

Mortgage lenders originate loans in the primary market that are either held in their portfolio or sold to the secondary market. The GSEs play a vital role in maintaining liquidity and stability in the primary market through their work in the secondary mortgage market. These secondary market enterprises generally, and their affordable housing activities in particular, help make America's housing finance system the best in the world. Preserving the financial safety and soundness of the GSEs is an important public policy objective that is strongly supported by MBA.

To further ensure a safe and efficient housing finance system, MBA is dedicated to preserving the primary market as the domain of a robust and competitive private sector, an essential factor in lowering the cost of homeownership and rental housing. It is essential that the GSEs focus on the mission prescribed in their charters and that the clear distinction between primary and secondary market activities be reaffirmed by a strong and independently funded regulator.

In addition, the secondary market for conforming mortgage loans will be more competitive if the Federal Home Loan Banks (FHLBs) are authorized to guarantee securities backed by conforming loans. The mortgage programs of the FHLBs have already created greater competition for the GSEs and, if current FHLBs' authority relating to securitizing mortgages is clarified, these programs would have greater potential for growth.

Action: MBA will advocate for strong and effective regulatory oversight of the GSEs, achievable affordable housing goals and activities, a bright line defining the boundary between the primary and secondary mortgage markets, and for a strong and competitive secondary market.

GSE Oversight: MBA advocates legislation to ensure effective regulatory oversight of the GSEs. MBA believes that this oversight reform should include: strengthening the safety and soundness regulator of the GSEs; granting that regulator the necessary authority to define and enforce the secondary market role of Fannie Mae and Freddie Mac; and granting the

safety and soundness regulator the authority to amend capital standards as appropriate. In the unlikely event that a GSE were to become financially distressed, the regulator should have appropriate authority to intervene to protect the operation and liquidity of the secondary mortgage market, particularly the mortgage backed securities markets.

GSE Affordable Housing Goals: MBA will advocate for the amendment of the affordable housing goals set in 1992 so that they will provide a greater emphasis on low-income households and assure that the goals do not distort the housing markets. In addition to the goals, MBA will support the creation of an Affordable Housing Fund (AHF) by Freddie Mac and Fannie Mae that would subsidize low-income homeownership and very low-income rental housing through contributions made by the GSEs in an amount calculated as a specified fee on their outstanding debt. The eligible uses, distribution of grants and subsidies, and monitoring the performance and administration of the AHF should be governed by regulations issued by the GSEs' regulator. MBA also supports the establishment of an Advisory Board that would advise the regulator about the GSEs' affordable housing goals and AHF administration.

Secondary Market Competition: MBA will work with the Federal Home Loan Banks, policy makers in the Executive Branch, regulators, and Congress, to advance a legislative proposal to clarify and make explicit that the FHLB's have the authority to securitize and guarantee all or a portion of the cash flow from qualified mortgages, subject to regulatory approval. While there is substantial reason to believe that the FHLBs already have statutory authority to do so, MBA believes that clarifying this authority in legislation would enhance the likelihood that the FHLBs and their regulator would proceed with program development.

TERRORISM INSURANCE

Following the terrorist acts of September 11, 2001 a pervasive uncertainty in the insurance markets occurred regarding potential liability associated with future terrorist attacks. In response to substantial concerns about the continued availability of terrorism insurance coverage for commercial/multifamily property owners, Congress enacted the Terrorism Risk Insurance Act of 2002 (TRIA).

This act provided for federal reimbursement of insurance losses associated with acts of foreign terrorism that produce aggregate losses of \$5 million or more for all affected policyholders. This program is scheduled to expire in 2005. But it is important to note that the primary insurance market has not yet fully recovered after the attacks of September 11th.

The threat posed by potential acts of terrorism has not diminished nor is it expected to in the immediate future, especially by the sunset date of TRIA in 2005. Primary insurance coverage for a chemical, biological or dirty bomb attack remains unavailable despite enactment of TRIA. An inadequate supply of terrorism insurance reduces the availability of loan capital for commercial real

estate, increases borrowing costs and undermines economic growth, including employment in the construction and real estate sectors.

Action: MBA will actively seek and support legislation that reauthorizes and extends the Terrorism Risk Insurance Act of 2002 or institutes an alternative government reinsurance program to provide adequate terrorism insurance for commercial and multifamily real estate, and thus ensures stability and liquidity in the primary and secondary debt markets.

PREDATORY LENDING

MBA will continue to take a strong stance against abusive lending and in support of consumer protection. Nevertheless, the proliferation of anti-predatory lending laws in many states has created a significant regulatory burden for lenders which, in some instances, is threatening to dry up badly needed credit.

To protect consumers and facilitate the free flow of capital from state to state Congress should pass a balanced, uniform, national anti-predatory lending law. In addition to calling for a uniform national standard to combat abusive lending, MBA has pursued a three-pronged approach that calls for the simplification of the mortgage process, enhanced consumer education, and increased enforcement by appropriate federal and state regulatory agencies. Such an approach protects the more vulnerable members of society and helps makes the dream of homeownership available to the traditionally underserved.

Action: MBA will seek legislation to enact a national standard to combat abusive lending practices. The new law will provide consumers with important protections, but will also allow for the continued operation of an efficient national mortgage market.

HMDA EDUCATION

The Federal Reserve Board has instituted new requirements for reporting 2004 mortgage loans under the Home Mortgage Disclosure Act (HMDA). These reports will be made available in 2005. These new rules require lenders to report additional data on certain mortgages including the amount their rates exceed comparable treasuries, their lien status, whether they are subject to the Homeownership and Equity Protection Act (HOEPA) and whether they are for home improvement.

MBA is concerned that while the data will be reported with race, ethnicity, income and location information, the data will not include any information related to the reasons for the loans' pricing. For example, the data will not include information on the borrower's creditworthiness or ability to repay or to the value of the collateral, such as the borrower's payment-to-income ratio and/or the loan-to-value ratio.

Action: MBA will lead an effort to educate and inform legislators, policy makers, regulators, and other interested groups and the public to help

them better understand the HMDA data ahead of its release. This effort will focus on explaining the pricing of loans and emphasize that as a result of the industry's work, consumers from a wide range of income categories and ethnic backgrounds are for the first time being able to achieve the American Dream of homeownership. MBA also will provide substantial assistance to its members to help them navigate the new HMDA requirements.

GREATER EFFICIENCY OF INVESTMENT IN REAL ESTATE – REMIC REFORM

REMICs or Real Estate Mortgage Investment Conduits were created by the Tax Reform Act of 1986. They serve as an investment vehicle for the mortgage banking industry and play a critical role in providing capital for residential and commercial mortgages. The critical characteristic of REMICs is their tax status as pass-through entities, which allows investors in real estate assets to split the principal and interest from the assets according to timing (i.e. early pay/deferred pay) and type of asset interest (i.e., interest-only or principal-only).

However, highly restrictive rules to preserve this tax status now govern REMICs, significantly limiting the original goal of increased flexibility. Certain limited changes to the tax code, such as removing the prohibitions against substitution of collateral, will make this important and efficient source of capital more useful to single-family, commercial and multifamily borrowers while at the same time bring greater security to lenders and investors.

Modernizing the REMIC law will greatly enhance the ability of property owners to upgrade buildings after the mortgage has been securitized, without the need for costly and burdensome tax opinions. More importantly, by facilitating the renovation of existing property, REMIC modernization will help to spur new economic growth and employment.

Action: *MBA will actively support legislation to remove restrictions to investment in real estate through the use of REMICs. MBA will only promote changes to the REMIC tax vehicle that will not adversely affect bondholders.*

ENHANCING AFFORDABLE HOUSING – FHA EMPOWERMENT

Over the years, FHA has facilitated the availability of capital for the nation's single-family and multifamily housing markets by providing government insured financing on a loan-by-loan basis. FHA is a stabilizing influence in the nation's housing markets, especially in places or at times where private mortgage insurance is not a viable option. FHA has been especially critical in facilitating affordable housing opportunities for low- and moderate-income families, first-time homebuyers and minorities.

FHA's mortgage insurance programs will continue to play a critical role in helping provide mortgage credit to families who are under-served by the private market.

FHA's ability to serve these populations would be enhanced if current technology and processes were updated and modernized. MBA believes that with certain enhancements, FHA has the potential to play a greater role in meeting our nation's housing needs. FHA should be empowered with new authority that will allow it to continue its mission and enhance its ability to assist families with no other alternative for homeownership or affordable rental housing.

Action: MBA will build a coalition to fight for legislation to strengthen FHA in its important public mission of providing affordable housing opportunities. This legislation will seek to relieve FHA from overly burdensome processes and restrictions, and to enable it to adopt important private sector efficiencies by giving FHA more latitude to invest in new technologies, the freedom to create new products and the ability to recruit and retain a world-class professional staff. MBA will also work to enhance FHA's ability to serve renters and aspiring homeowners. For instance, MBA will fight for the creation of a no downpayment single-family insurance product – a product that will be especially beneficial for low- and moderate-income first-time homebuyers.

TAX REFORM

Federal tax policies have tremendous impact on the value of real estate and directly affect the attractiveness of owning and selling residential property. Prudent tax policies that keep pace with the goals of our nation and the realities of the marketplace can also work to support, enhance and encourage homeownership.

In 2005, we expect that there will be greater emphasis and much discussion about reforming our nation's tax system. Given the critical role that our nation's tax policies play in affecting the real estate finance industry, MBA will focus its advocacy efforts on preserving tax incentives that will create opportunities for more Americans to gain a stake in our ownership society.

ACTION: MBA will advocate for tax reforms that will preserve the mortgage interest tax deduction to promote the continued expansion of homeownership opportunities for more Americans. Mortgage interest deductibility has been one of the most powerful incentives for expanding homeownership. MBA will seek to ensure that this effective tax incentive is not targeted for elimination or adverse change as part of any tax reform initiatives.