



2006

*ADVOCACY*

*AGENDA*

The Mortgage Bankers Association's (MBA) 2006 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 3,000 real estate industry firms that finance approximately 70 percent of residential and 50 percent of commercial mortgages in the country.

### **HOUSING TAX INCENTIVES**

**Action:** MBA will advocate for the preservation and expansion of tax incentives that increase homeownership and create more opportunities to build affordable rental housing. These incentives include the mortgage interest deduction, deductibility of state and local property taxes, deductibility of mortgage insurance premiums, and the low income housing tax credit (LIHTC).

**Mortgage Interest Deduction:** *MBA will work to preserve the mortgage interest deduction and the social and economic benefits it generates for homeowners. MBA will also advocate for the continued deductibility of interest on home equity loans and home equity lines of credit.*

**Deductibility of State and Local Property Taxes:** *MBA will advocate for the continued deductibility of state and local property taxes. Eliminating these property tax deductions would significantly increase taxes for millions of homeowners.*

**Deductibility of Mortgage Insurance Premiums:** *MBA will continue to support proposals that allow low- and middle-income families to deduct mortgage insurance premiums from their income in calculating their federal income tax.*

**Low Income Housing Tax Credit:** *MBA will work to preserve the Low Income Housing Tax Credit (LIHTC), and to address a number of existing problems with the credit. The program's bias toward non-profit sponsors should be eliminated and statewide, rather than area, median income should be used to determine income limits for tenants in rural areas. The LIHTC should also be revised to encourage the original goal of creating mixed-income developments.*

Since the enactment of the federal tax code in 1913, the mortgage interest deduction has served as one of the most powerful incentives for the expansion and preservation of homeownership in our nation's history. Provisions of the tax code allowing for the deduction of mortgage interest and state and local property taxes are consistent with America's longstanding tradition of encouraging homeownership. Homeownership provides significant social benefits, strengthens the economy and plays a key role in Americans' accumulation of wealth.

Although the tax code contains many vital incentives to promote homeownership and affordable housing, it still fails to allow homeowners to deduct their payments for mortgage insurance. Mortgage insurance is frequently required of many homebuyers who make a down payment of less than 20 percent. Mortgage insurance is required for 57 percent of all home purchase loans made to African-American and Hispanic borrowers and 54 percent of loans made to middle-income borrowers. This non-deductible expense typically costs over \$1,000 annually. Allowing for this expense to be deducted would benefit families with low- and moderate-incomes by helping to lower the cost of mortgages, making homeownership even more affordable for thousands of families.

The tax credits granted under the LIHTC helps create affordable rental housing by encouraging private investors to put money into rental housing developments targeted at low- and moderate-income households.

## **HURRICANES KATRINA AND RITA DISASTER RESPONSE**

**Action: MBA will work with Congress to address concerns expressed by borrowers, mortgage servicers, and note holders in the aftermath of Hurricanes Katrina and Rita. Additionally, MBA will work with Fannie Mae, Freddie Mac, HUD, VA, Ginnie Mae, and others to improve specific disaster loss mitigation and claim policies.**

Hurricanes Katrina and Rita resulted in unprecedented damage and destruction to homes and businesses. Many homeowners whose properties were damaged do not have the means to rebuild their properties and may be unable to pay their mortgages. Other property owners will be prohibited from rebuilding for public safety and hazard contamination reasons. The mortgage industry is vital to rebuilding efforts along the Gulf Coast. Several Congressional efforts are underway to provide relief to homeowners.

Specifically, Rep. Richard Baker (R-LA) introduced H.R. 4100, to create the Louisiana Recovery Corporation (LRC) that would purchase properties in the devastated areas of Louisiana. MBA will work with Rep. Baker and other members of Congress to craft and pass legislation that will facilitate the flow of private capital into those areas destroyed by the hurricanes.

## **FLOOD INSURANCE**

**Action:** MBA will urge Congress to fund existing obligations to property owners with flood-damaged properties, and examine what reforms may be necessary to maintain the solvency of the National Flood Insurance Program (NFIP).

The flood damage to homes and businesses in the Gulf Region caused by Hurricanes Katrina and Rita raised many issues surrounding the NFIP. Over the past several months, Congress has had to increase the flood insurance program's borrowing authority to enable it to pay claims from the hurricanes. Currently, the NFIP's borrowing authority is \$18.5 billion. It may be necessary to increase borrowing authority again to continue to pay all hurricane-related claims. Additionally, the flood insurance program should be studied to determine what appropriate changes may be needed to mitigate the need for future appropriations.

## **GOVERNMENT SPONSORED ENTERPRISES (GSEs)**

**Action:** MBA will continue to fight for strong and effective regulatory oversight of Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (FHLBs) (collectively the GSEs). MBA will also continue its support for the creation of a strong and effective regulator who will assure that the GSEs' activities do not improperly expand into the primary market, set appropriate affordable housing goals and activities, and ensure a strong and competitive secondary market.

***GSE Oversight:*** *MBA supports legislation that will ensure effective regulatory oversight of the GSEs and the FHLBs. MBA believes that this oversight reform should include: strengthening the GSE regulator; granting that regulator the necessary authority and tools to define and enforce the secondary market role of Fannie Mae and Freddie Mac; and granting the regulator 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 continue to support amending the affordable housing goals set in 1992 to provide a greater emphasis on low-income households and assure that the goals do not distort the housing markets. In addition to the goals, Congress is also considering creating an Affordable Housing Fund (AHF) to subsidize low-income homeownership and very low-income rental housing through Fannie Mae and Freddie Mac. If the AHF is*

***created, it should be governed by regulations issued by the GSE regulator and an Advisory Board should be established to advise the regulator about the GSEs' affordable housing goals and AHF administration.***

***FHLBs and Secondary Market Competition: MBA will work with the FHLBs, policy makers in the executive branch, regulators, and Congress to enact legislation to clarify and make explicit that the FHLBs have the authority to securitize and guarantee all or a portion of the cash flow from qualified mortgages, subject to regulatory approval. There is substantial reason to believe that the FHLBs already have statutory authority to do so, but by clarifying this authority in legislation Congress would enhance the likelihood that the FHLBs and their regulator would promote securitization efforts.***

The GSEs play a vital role in maintaining liquidity and stability in the primary market through their work in the secondary mortgage market. Preserving the financial safety and soundness of the GSEs is an important public policy objective that MBA strongly supports.

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 home ownership and rental housing. It is essential that Fannie Mae and Freddie Mac focus on the mission prescribed in their charters, and that a strong, independently funded regulator reaffirm the clear distinction between primary and secondary market activities.

The FHLBs regulator must also be a strong, independently funded entity dedicated to preserving the unique mission of the FHLBs under their charter and to protecting the safety and soundness of the Federal Home Loan Banking system. In addition, the secondary market for conforming mortgage loans will be more competitive if the FHLBs are authorized to issue or guarantee securities backed by conforming loans. The FHLBs' mortgage programs have already created greater competition for Fannie Mae and Freddie Mac and, if the FHLBs current authority relating to securitizing mortgages is clarified, these programs will have greater potential for growth.

## **MORTGAGE FRAUD**

**Action: MBA will seek \$6.25 million in dedicated funding for 30 new Federal Bureau of Investigation (FBI) field investigators, two new dedicated prosecutors at the Department of Justice to coordinate prosecution efforts with the U.S. Attorney's offices, and \$750,000 to support the operations of FBI Interagency Task Forces in the areas with the 15 highest concentrations of mortgage fraud. With these increased and dedicated**

**resources, law enforcement can more effectively pursue and criminally prosecute mortgage fraud.**

The FBI recently reported that accounts of mortgage fraud have increased seven-fold in the past five years and the FBI caseload has increased over 160 percent since 2003. In an attempt to crack down on this crime, mortgage lenders have made significant investments into systems and initiatives to detect and prevent mortgage fraud.

Despite extensive industry efforts to combat mortgage fraud, mortgage lenders themselves cannot conduct criminal investigations or criminally prosecute the perpetrators. Unfortunately, because of a lack of federal and state law enforcement resources devoted to combating mortgage fraud, perpetrators often face few consequences, and lenders incur monetary losses with little or no chance of restitution. At the federal level, the FBI has insufficient resources exclusively dedicated to combating mortgage fraud, despite their own reports of the staggering increase in mortgage fraud.

### **ENHANCING AFFORDABLE HOUSING – FHA EMPOWERMENT**

**ACTION: MBA will advocate for legislation to relieve the Federal Housing Administration (FHA) from overly burdensome processes and restrictions, and to enable it to adopt 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 an excellent professional staff. MBA will continue to advocate 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.**

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, especially in places or at times when 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 have steadily lost market share over the past three years and could soon become irrelevant except to very small niche markets. If FHA is to continue to play a critical role in helping provide mortgage credit to families who are underserved by the private market, changes must be made. FHA's current technology and processes need to be updated and modernized, its ability to manage its human resources made more flexible, and it should be freed from statutory constraints that inhibit product innovation. FHA should be empowered with new authority that will allow it to continue its mission and enhance its ability to help families achieve homeownership or find affordable rental housing.

## **GREATER EFFICIENCY OF INVESTMENT IN REAL ESTATE – REMIC MODERNIZATION**

**Action:** MBA will continue to support legislation (H.R. 1010 and S. 580) that removes restrictions on investment in real estate through Real Estate Mortgage Investment Conduits (REMICs). MBA will only promote changes to the REMIC tax vehicle that will not adversely affect bondholders.

REMICs were created by the 1986 Tax Act as a means of increasing capital flows to real estate by creating a secondary mortgage market vehicle. However, outdated rules limit the ability to take basic but essential commercial property management actions, such as remodeling, renovations or expansions that would enhance the value of the collateral and make the underlying mortgage more secure.

MBA seeks to modernize the REMIC rules in the U.S. Tax Code to allow for the modification of collateral securing commercial mortgages held in REMICs. Such modification would increase opportunities to maximize the economic value of the property and enhance commercial real estate growth and viability.

## **RESPA REFORM**

**ACTION:** As HUD moves forward in the RESPA reform process, MBA will evaluate HUD's proposals, continue to develop approaches to reform and urge the adoption of reforms that simplify the process, making it more consumer friendly, and facilitate market innovations to lower costs for industry and consumers.

MBA has long supported Real Estate Settlement Procedures Act (RESPA) Reform. The current RESPA requirements are confusing to consumers and cumbersome for industry practitioners. Reform, if executed properly, would improve access to mortgage finance and lower costs to consumers. It would also limit litigation that continues to plague the industry and increase costs. Moreover, by making the mortgage transaction more transparent, reform would reduce the possibility of abusive lending practices. The challenge, however, is to achieve reform without causing unintended consequences and even higher costs. To meet this challenge, MBA will continue to work with its members and others in the lending industry to develop its approach to reform.

## **PREDATORY LENDING**

**Action:** MBA will continue to support the enactment of H.R. 1295, the "Responsible Lending Act," as the appropriate legislative vehicle to create a national anti-predatory lending standard. MBA will also advocate for modifications that would improve the bill's protection of consumer credit

**and will encourage the introduction of viable, bipartisan national standard legislation in the Senate.**

The proliferation of anti-predatory lending laws in many states has created a significant regulatory burden for lenders. To protect consumers and facilitate the free flow of capital from state to state, Congress in 2005 introduced H.R. 1295. This bipartisan bill would establish a balanced, uniform, national anti-predatory lending law and would provide meaningful consumer protections and objective compliance standards.

MBA will also continue to work for the simplification of the mortgage process, enhanced consumer education, and increased enforcement by appropriate federal and state regulatory agencies. Such an approach, in addition to the new law, will protect vulnerable members of our communities and will continue to make homeownership more available to the traditionally underserved.

Recently, federal banking regulators issued new proposed *Interagency Guidance on Nontraditional Mortgage Products*. The guidance focuses on "interest-only" and "payment option" mortgage products. It seeks to clarify how institutions can offer these products in a safe and sound manner and in a manner which clearly discloses potential risks to borrowers. MBA will submit comments to the appropriate regulatory agencies that reflect member comments and concerns.

### **THE TERRORISM RISK INSURANCE EXTENSION ACT (TRIEA)**

**Action: MBA will monitor the implementation of the Terrorism Risk Insurance Extension Act (TRIEA) in 2006. MBA will work with industry groups, Members of Congress and Treasury officials to reach consensus on a long-term solution for the development of private sector terrorism insurance market before TRIEA expires on December 31, 2007.**

At the federal level, MBA will closely monitor the activities of the President's Working Group on Financial Markets (Working Group). The TRIEA legislation charged the Working Group with performing an analysis regarding the long-term availability and affordability of insurance for terrorism risk that includes nuclear, biological, chemical, and radiological risks and life coverage. MBA will also work closely with the Department of Treasury regarding the issuance of TRIEA compliance guidance and will monitor and encourage the state-by-state adoption of guidance issued by the National Association of Insurance Commissioners for the implementation of TRIEA by state Insurance Commissioners.

### **DATA SECURITY**

**Action: MBA will support federal legislation that balances protections for consumers with obligations of lenders to maintain privacy and security of consumers' personal identifying information.**

In response to data security breaches involving financial services and consumer data storage companies, a number of bills have been introduced at the federal and state level that would ensure that consumers are notified if their personal identifying information is compromised, and would require storage and disposal standards for companies that store, maintain or utilize personal identification data.

MBA-supported federal legislation will establish language for a strong uniform standard, define concise security breach triggers, maintain consistency with and build on Gramm-Leach-Bliley Act privacy provisions, create a national standard for the definition of sensitive data elements for consistent interstate commerce application, identify appropriate penalties for violations, clarify the entity responsible for the costs of providing consumer notifications and create a safe harbor for entities that take proactive preventative measures.

### **BROWNFIELDS REDEVELOPMENT INCENTIVES**

**Action: MBA will continue to urge Congress to renew and make permanent the year 2000 reforms to the tax treatment of Brownfields cleanup costs and to expand the program to include petroleum-contaminated sites nationwide.**

The Brownfields Economic Redevelopment Initiative (BERI) is designed to address sites that may be contaminated by hazardous substances but do not pose a serious enough public health risk warranting cleanup under the Superfund program.

Since 2000, to be eligible for the Brownfields tax incentive, which allows for the deduction of some cleanup costs associated with redevelopment, a site must be designated as qualified by the appropriate state environmental agency. The Working Families Tax Relief Act of 2004 extended this provision through 2005. MBA supports renewing this provision and making it permanent. The Brownfields expensing provision was extended through December 31, 2007 for contaminated sites in the Gulf Opportunity Zone.

Furthermore, the Brownfields designation is currently limited to sites that are not contaminated with petroleum. This limitation unnecessarily impedes the cleanup and productive use of certain sites. Accordingly, MBA supports expansion of the Brownfields program to include petroleum-contaminated sites.