



May 17, 2020

The Honorable Monique Limon  
Member, California State Assembly  
State Capitol, Room 6031  
Sacramento, California 95814

Dear Assembly Member Limón:

On behalf of the undersigned trade associations representing the financial services industry, we are writing to express concerns with AB 2501 the COVID-19 Homeowner, Tenant and Consumer Relief Law of 2020. While the legislation is well intended, it has the potential to cause significant disruptions in the mortgage markets, limit access to credit and lead to further unintended consequences for California customers.

The financial services industry is taking unprecedented steps to assist its customers during the COVID-19 pandemic. Financial services firms are successfully working with customers to provide not only the relief required by federal and state law, but also customized options to make sure that customers receive the solutions that work best for their personal financial situations. In just seven weeks since the CARES Act passed in late March, mortgage servicers have provided forbearance to approximately 3.5 million borrowers nationwide,<sup>1</sup> while operating under the challenging conditions of converting call centers to remote work. Financial companies are also engaged with federal regulators, as they enhance and adapt their guidance on communicating with borrowers, to ensure borrowers are aware of and know how to access available payment relief options.

AB 2501 would undermine these ongoing efforts to help customers by creating duplicative and sometimes contradictory requirements for the mortgage and auto finance industries when

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<sup>1</sup> See Mortgage Bankers Association Weekly Forbearance Survey at <https://www.mba.org/2020-press-releases/may/share-of-mortgage-loans-in-forbearance-increases-to-791>

viewed alongside federal rules, regulations and program requirements established by Congress, regulatory bodies, federal executive agencies, and government sponsored enterprises. These conflicts have the potential to significantly disrupt access to credit for California borrowers, as well as the securitization market that provides needed liquidity for the mortgage market.

The bill also diverges from federal provisions that provide foreclosure and forbearance protections for all Americans during this health crisis. While it is the purview of the California legislature to provide specific protections to Californians, this bill would create a patchwork of differing standards and timelines that are likely to confuse borrowers without enhancing consumer choice or protections. In fact, it will have the unintended effect of limiting the flexibility of servicers to help borrowers.

Moreover, as we learned with the HAMP program in the aftermath of the 2008 crisis, adding new and conflicting forbearance and loan modification options in the middle of a crisis will undermine customer service levels. The HAMP program went through numerous revisions after its introduction, each one requiring significant systems changes and re-training that diverted critical resources from the core objective. The current forbearance and loan modification regimes were developed with that lesson in mind – uniformity and standardization improve execution. Adding new forbearance, loan modification and notice requirements on a state-by-state basis will once again require servicers to redirect resources away from customer facing support activities.

In terms of secondary market disruption, Fannie Mae and Freddie Mac have specific directives that must be followed in order to provide a uniform functional marketplace for investors in mortgage loans. Government insurers and guarantors (FHA, VA, and USDA) backed by Ginnie Mae have done the same. The residential mortgage provisions in the bill – particularly those that would cause lenders to lose their security interests in the collateral – may make it impossible for financial institutions to comply with the rules of these organizations and will ultimately challenge the ability of Fannie Mae, Freddie Mac and Ginnie Mae to purchase or insure such loans. Injecting significant legal uncertainty into the mortgage contract puts at risk the ability to access the secondary market and could cause irreparable harm to California home buyers.

Finally, both the mortgage and auto finance provisions of AB 2501 would significantly interfere with the ability of certain federally-chartered financial institutions to engage in the business of banking as authorized under the federal banking laws. As a result, these provisions should not apply to federally-chartered institutions, thus leaving the provisions only applicable to California banks, credit unions, thrifts and state-licensed lenders. This differential treatment would cause extensive confusion and disruption to California consumers and the mortgage and auto markets that serve them. This result would not be in the best interests of the public as we all work together to best address the urgent needs brought on by the pandemic.

We appreciate the opportunity to share our concerns with AB 2501 and underscore the important work already underway by the financial services industry to support California

borrowers and provide them with customized options to address their specific financial needs during this unprecedented time. If you have any questions, please do not hesitate to contact us.

Sincerely,

American Bankers Association  
American Financial Services Association  
Bank Policy Institute  
Credit Union National Association  
Housing Policy Council  
Mortgage Bankers Association  
Securities Industry and Financial Markets Association