



MORTGAGE BANKERS ASSOCIATION

June 19, 2018

The Honorable Josh Gottheimer  
213 Cannon House Office Building  
Washington, D.C. 20515

The Honorable Lee Zeldin  
1517 Longworth House Office Building  
Washington, D.C. 20515

Dear Representatives Gottheimer and Zeldin:

On behalf of the Mortgage Bankers Association (MBA), I am writing to express our strong support for H.R. 5993, the *Fixing Housing Access Act of 2018*.

As you are well aware, the legal and operational risks associated with originating FHA-insured loans have increased markedly in recent years, largely due to the prevalence of civil actions brought by the Department of Justice (DOJ) under the False Claims Act and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). MBA strongly supports ethical and responsible lending and believes that any enforcement regime should feature clear, well-defined rules, thresholds, and remedies. Unfortunately, recent use of the False Claims Act and FIRREA has created greater uncertainty for FHA lenders, causing many lenders to pull back from the program.

The *Fixing Housing Access Act of 2018* addresses this concern through a number of reasonable and thoughtful provisions. The legislation clarifies and improves the timing associated with potential violations and relevant statutes of limitations, as well as the calculation of damages. The legislation also specifies that essential elements of a claim be proven for each individual claim rather than through the problematic use of statistical sampling. And given the harsh penalties sought by DOJ for minor loan defects in recent years, the enhanced clarity on the threshold of "materiality" of claims in the legislation will be a vital component of efforts to revive broad participation in the FHA program.

Importantly, the reforms contained in this legislation allow the DOJ to retain ample authority to pursue bad actors and do not weaken the other administrative remedies that are available to the Department of Housing and Urban Development (HUD). Instead, these reforms provide greater certainty to FHA lenders, enabling them to better serve the first-time and low-income homebuyers that are the central to the FHA mission. As housing affordability remains a challenge in many segments of the country, common-sense steps to improve the FHA program, such as those contained in this legislation, are critically important.

Thank you for your efforts to address this meaningful issue. We look forward to working with you both to help advance this important bill through the Financial Services Committee and, ultimately, to the House floor.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Killmer".

Bill Killmer  
Senior Vice President  
Legislative and Political Affairs