CALIFORNIA ASSOCIATION OF REALTORS®

July 18, 2013

Committee on Financial Services
United States House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Re: California Association of REALTORS® Opposition to the Protecting American Taxpayers and Homeowners Act of 2013

Chairman Jeb Hensarling and Ranking Member Maxine Waters;

I am writing on behalf of the 155,000 members of the California Association of REALTORS® (C.A.R.) to express our strong opposition and concerns regarding the discussion draft of the Protecting American Taxpayers and Homeowners Act of 2013 (PATH). C.A.R. appreciates the opportunity to comment on the important issues raised in the discussion draft. We are deeply concerned that passage of the Act would have dire consequences for the recovery of the real estate market, and cause irreparable harm to the nation's future homebuyers and housing market.

C.A.R. and its members are first and foremost focused on the promotion and support of homeownership. For over 100 years C.A.R.'s members have worked to help their family, friends and neighbors experience the American dream of homeownership. The benefits of homeownership, not just to individual households, but to the community and nation as a whole are well documented. Since the Great Depression, the nation has understood that while economic markets, and even housing markets are cyclical, qualified homebuyers must not be held hostage to the whims of Wall Street. For almost eighty years the nation has moved its home finance policy along those principles, principles which we believe PATH would reverse.

FHA Reform Should be Removed from PATH

C.A.R. supports efforts by Congress to make necessary improvements to the FHA program; however, we believe any discussion on FHA reform should be separate from efforts to "wind-down" Fannie Mae and Freddie Mac, and the creation of a replacement for them.

C.A.R. is strongly opposed to many of the FHA changes proposed in PATH. In response to specific provisions of Title II:

- C.A.R. is opposed to changes in the role and mission of the FHA. Limiting the FHA program to only first-time homebuyers and low- and moderate-income homebuyers is a drastic departure from the historic mission of the FHA and the very purpose for which it was created.
- C.A.R. is opposed to the decrease in the FHA loan limits. Equal access to affordable and safe mortgage financing is a continuing problem for high-cost states like California, and C.A.R. is opposed to any and all rollbacks of FHA's current loan limits.
- C.A.R. is opposed to the increase in the downpayment amount from 3.5 percent to five-percent. This change hurts homebuyers and will disqualify many otherwise worthy buyers; sufficient evidence has not been presented that increasing the downpayment to five-percent will improve a loans performance more than proper underwriting.
- C.A.R. is opposed to the reduction in FHA mortgage insurance coverage from 100 percent to 50 percent in only five years. The impact of reducing FHA's coverage is unknown and a large rollback of this coverage in such a short timeframe without any knowledge of its impact is reckless, and guaranteed to decrease the availability of funding to qualified buyers.
- C.A.R. is opposed to the creation of a new definition of "first-time homebuyer" that differs from the definition used under other HUD programs.
- While C.A.R. is not opposed to a risk sharing program for the FHA, we are concerned about mandating the program without understanding the private market's willingness to participate in such a program during various market conditions.

C.A.R. echoes the comments of the National Association of REALTORS® in asking for FHA reforms that address solvency issues similar to what was passed in the House (by a vote of 402-7) last year.

A Government Role in the Mortgage Market

While C.A.R. has supported the reform or replacement of the government sponsored enterprises (GSE), Fannie Mae and Freddie Mac, we do **not** support the manner in which the GSE are wound-down in PATH, or the creation of a replacement entity, such as the Mortgage Market Utility (Utility), without an explicit government guarantee. In response to specific provisions of Title I and Title III

- C.A.R. is opposed to the continued increase in the GSE guarantee-fee (G-fee). Most recently the Office of Inspector General of the FHFA issued a report skeptical of this G-fee increase policy which mistakenly believes private capital can be priced back into the market. In actuality, the continued increase in G-fees fails to adequately reflect the true risk of borrowers who are punished by paying higher interest rates than they should. The proposed G-fee is really an undisclosed tax on the mortgage that runs in perpetuity.
- C.A.R. is opposed to the decrease in the loan limits. As stated above in our concerns regarding the lowering of FHA's loan limits, C.A.R. believes the high-cost states loan limits are necessary to ensure equality for California's homebuyers in obtaining safe and affordable financing. In C.A.R.'s most recent June 2013 home price report, no less than 10 counties in California had **median** home prices above the proposed high-cost loan limit.
- C.A.R. is opposed to the "mandatory" risk sharing of the GSEs. Fannie Mae and Freddie Mac have not yet executed a single pilot risk sharing transaction to determine the appropriate structure and market demand. While C.A.R. is not opposed to exploring risk sharing, codifying a mandatory risk sharing program regardless of market conditions is "testing the depth of the water with both feet" and is something C.A.R. cannot support.
- C.A.R. believes the PATH draft must provide an explicit government guarantee for the Utility—or any entity—that is intended to replace the GSE. C.A.R. has seen no evidence that the private sector can provide adequate capital to the nation's $11 trillion mortgage market in all market conditions. The last time private capital was a majority of the market was during the '03-'06 bubble, where subprime and Alt-A loans, which did not have government guarantees, had the most relaxed underwriting standards in history so the private sector could gain that market share.

C.A.R. appreciates the Chairman putting this issue before Congress for debate. The PATH draft does have provisions that C.A.R. is supportive of, and glad to see included, such as addressing the use of eminent domain for seizing mortgage notes, an attempt to address the counter cyclical issues surrounding mortgage capital availability, and the acknowledgement of the importance of maintaining the 30-year fixed rate mortgage. However, C.A.R. must strongly oppose PATH as currently drafted.

Congressional supporters of PATH are not alone in wanting to see private capital return to a larger role in the real estate finance industry, C.A.R.

along with the rest of the industry supports that belief. The reality however is that won't happen until confidence in the rating agencies return, rep & warrant issues between issuers and investors are addressed, investors are comfortable with transparency on loan level data, and most importantly real estate is seen as a better investment than competing sectors investors currently are invested in. Draconian legislation and policy attempting to force the mortgage market to become privately capitalized will not only fail because it addresses none of these issues, but in the process will harm homebuyers, the real estate industry and the nation as a whole.

Thank you for your consideration of our comments. C.A.R. believes there is nothing more important to the housing recovery than availability of mortgage financing. For the last 80 years homebuyers, and the industry as a whole, have taken for granted that if they walk into their corner bank and can qualify for a mortgage, that lender will have money available to make a home loan. C.A.R. believes that should Congress pass the PATH legislation in its current form there will be times when qualified homebuyers will no longer be able to count on their lenders being able to provide a home loan.

Sincerely,

Don Faught

Don Faught
President of the California Association of REALTORS®

Cc:
California Members of the House Financial Services Committee