CALIFORNIA ASSOCIATION OF REALTORS®

April 28, 2014

Chairman Tim Johnson & Ranking Member Mike Crapo
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510



**Re: California Association of REALTORS® Opposition to S. 1217, the Housing Finance Reform and Taxpayer Protection Act of 2013**

Dear Chairman Johnson and Senator Crapo:

On behalf of the more than 160,000 members of the California Association of REALTORS® (C.A.R.) I am submitting the following letter in **OPPOSITION** to S. 1217, the Housing Finance Reform and Taxpayer Protection Act of 2013. While C.A.R. commends you [the Chairman and Ranking Member] for working to create a broad mortgage finance reform bill, C.A.R. is opposed to the proposal because it will harm the housing market by making mortgages more expensive and less available for qualified homebuyers. In addition, the bill does little to address the reasons that private capital to fled the mortgage market and what is necessary to induce lenders and investors to once again put their money in private mortgage backed securities (MBS) absent a government guarantee.

C.A.R. is the nation's largest state trade association; our membership is made up of small business entrepreneurs participating in nearly every aspect of the real estate industry, including real estate agents, brokers, lenders, escrow, appraisal and investors. Our members understand that the nation's housing market begins and ends with the assurance that safe, affordable and adequate mortgage capital will be available for qualified homebuyers in all market conditions. Unfortunately, S. 1217 will **not** provide this assurance and will actually make the mortgage market worse for future homebuyers.

**Increased Interest Rates**

Multiple reports and studies demonstrate that S. 1217 will increase interest rates on mortgages anywhere from 25 basis points (bps) to 250 bps. For the average homebuyer S. 1217 is likely to increase interest rates 100 to 150 bps. What benefit is the consumer gaining by paying 150 bps more on their mortgage?

The cost of housing in California is already presenting difficulty for many of its homebuyers. C.A.R.'s housing affordability index shows only 32-percentage of

Californian's can afford to buy a home today. An increase of 100 to 150 bps could lower California's housing sales by six- to nine-percent. The increased costs and decreased affordability can only exacerbate housing affordability in California, especially for first time homebuyers. C.A.R. must oppose the bill which will harm California homebuyers and our housing market.

**Inability to Provide Mortgage Capital in Adverse Market Conditions**

C.A.R. is concerned with codifying a hard number in the risk sharing provision. We believe that the "exigent market conditions" provision that allows for the suspension of the risk sharing mandate is inadequate. California homebuyers, who are more reliant on non-government guaranteed mortgages than homebuyers in any other state, experienced firsthand during the housing crisis and resulting credit crisis that there will be long periods of time when private capital will not invest in real estate, and will certainly not be inclined to take a first loss position as required under the risk-sharing mandate. The most recent credit crisis resulted in an absence of private capital for years, not months; indeed private capital has still not fully returned to housing. C.A.R. is concerned that codifying a mandate—especially a specific number—would destroy liquidity in mortgage markets, and leave loans on lenders' portfolios when they are unable to find adequate private capital to take the first loss position.

Risk sharing, especially in the vague terms called for in the bill, is an untried mechanism. To date we know of only a few GSE risk sharing transactions. The very premise of this proposal is untested and unproven on even the smallest scale in the best market conditions. The codification of this requirement on such a large scale with no historical or practical applications on which to base the proposal is unjustified and dangerous.

**Does Not Address the Real Problems**

There are many reasons private capital fled the housing market and has only recently begun investing in government guaranteed MBS or super-prime jumbo mortgages. However the bill has done little to address the underlying factors that are at the cause of preventing this. These include:

- Rating Agencies: Investors will not return to the mortgage market absent a government guarantee until full confidence in the rating agencies has returned; a confidence lost during the subprime and Alt-A mortgage crisis.
- Representations and Warrants: While S. 1217 requires Reps & Warrants it merely transfers the current struggles the GSEs are having with originators onto the new regulator. Without an industry fix this will continue to hinder lending – and once again, capital will not be available.
- Confidence in Real Estate: Over the last year we have seen the market share of Fannie Mae, Freddie Mac, and the FHA shrink dramatically. The Qualified Mortgage and Qualified Residential Mortgage rules have recently been implemented and lenders are adjusting to their impact. Confidence in the real estate market is returning and because of that investors are choosing to put more of their money in real estate. The trend line is already moving towards less government involvement and more private capital, exactly what all industry participants want, and a top-down approach may not be needed.

Government guarantees through Fannie Mae and Freddie Mac did not cause the mortgage crash, but they have buffered the unfortunate consequences for homeowners since the crash. Following the crash investors would only invest in government guaranteed MBS and we now have a mortgage market dominated by Fannie Mae, Freddie Mac, and the FHA.

C.A.R. shares your goal of ending the conservatorship of Fannie Mae and Freddie Mac, and encouraging robust participation in the market by private capital. We respectfully suggest that S. 1217 will not be the answer to either.

We respectfully suggest that restructuring an industry with $10 trillion dollars in outstanding loans and which represents 18-percent of the nation's economy should be approached with great caution, and certainty; not in a way that costs homeowners more money and helps housing less. Fannie Mae and Freddie Mac are still in business and reporting and giving to the Treasury historic profits. We suggest that it is unrealistic to expect private capital to do the same and especially not to do so without higher costs to homeowners.

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. C.A.R. also believes that if Congress passes a mortgage finance reform bill that ignores the negative consequences on U.S. homebuyers the impact will be devastating. We would be happy to discuss any of these issues further with you and your staff, please contact Matt Roberts, C.A.R. Federal Government Affairs Manager at matthewr@car.org or by phone at 213-739-8284.

Sincerely,

Kevin Brown
2014 President

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Steve Brown, President National Association of REALTORS®