



Congress of the United States
House of Representatives
Washington, DC 20515

November 18, 2024

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20024

Dear Director Thompson:

Buying a home represents the largest and most important acquisition Americans make in their lifetime and purchasing title insurance secures that investment by protecting against financial loss from threats like unrecorded liens, fraud, and forgery. We are writing to express our concern that the Federal Housing Finance Agency's (FHFA) Title Acceptance Pilot (Pilot) reveals a misunderstanding of the critical importance of title insurance for both new home purchases and refinancing by insinuating it is a "junk fee." We are worried that the Pilot will inadvertently cause irreparable damage to homeowners and lenders by leaving them without critical protection against financial loss. **We ask that the Pilot be halted until FHFA solicits public input and thoroughly vets the Pilot, as called for in the FHFA's Prior Approval for Enterprise Products Rule.**

We applaud your ongoing efforts to promote homeownership, especially for low-income Americans, and share your concerns about the difficulty and costs of purchasing a home. However, the Pilot will not achieve your stated goal of finding ways to "responsibly reduce closing costs for homeowners in a safe and sound manner" and may expose homeowners and lenders to a heightened risk of future financial loss, or even the loss of their home. Since FHFA's announcement of the Pilot, there has been significant bipartisan pushback from both state and federal lawmakers, including Members of Congress, the National Council of Insurance Legislators, and fourteen Attorneys General, all persuasively arguing that this Pilot will not meaningfully address the nation's housing affordability challenges but instead potentially harm consumers.¹ We urge you to heed those concerns.

¹ Warren Davidson et al., "Letter to FHFA Director Thompson Regarding the Title Acceptance Pilot." March 15, 2024. <https://www.housingwire.com/articles/lawmakers-challenge-fhfas-title-insurance-waiver-plan/>; Wiley Nickel et al., "Letter to President Biden Regarding the Title Acceptance Pilot." April 17, 2024. https://nickel.house.gov/uploadedfiles/nickel_letter_to_potus_re_title_insurance_pilot_program.pdf; National Council of Insurance Legislators, "Letter to FHFA Director Sandra Thompson Regarding the Title Acceptance Pilot". March 9, 2024. <https://ncoil.org/wp-content/uploads/2024/05/NCOIL-FHFA-Letter-5-9-24.pdf>; Office of Tennessee Attorney General, "TN AG Leads Letter Urging FHFA to Terminate Program that Harms Homeowners and Small Businesses," July 22, 2024. <https://www.tn.gov/attorneygeneral/news/2024/7/22/pr24-58.html>.

Given the information currently available from FHFA in the Pilot's Frequently Asked Questions we believe the Pilot will not protect consumers as effectively as title insurance, including by limiting the title review process which will merely search public land records to identify any liens or encumbrances that would impact the new refinance loan.² Relying simply on an automated title search using public records alone will leave consumers susceptible to hidden threats not found in other records like unfiled liens, fraud, and forgery. The average cost of a title claim, and associated expenses is \$26,000, with claims for fraud and forgery averaging five times that amount at \$143,000.³ Therefore, even loans that pass the automated title review process proposed under the Pilot remain at significant risk of a costly future claim but will not have the protections afforded by title insurance. Additionally, the Pilot poses unnecessary risk by removing expert title agents from the refinance process.

Title agents, who are trained experts that comb through these various filings and cure defects to ensure a clear title, will be removed from the process under the Pilot, leaving consumers vulnerable to significant risk. According to an analysis of data from the last decade by First American Financial, millions of judgments and liens, including many that are not discoverable in public records, with the potential to threaten a transaction were filed against properties across the United States.⁴ Removing title agents under the Pilot will expose consumers to greater risk of seller impersonation fraud, a growing problem in which an individual sells or refinances another person's property without their knowledge or permission.⁵ Removing these experts from the equation opens many consumers to serious negative and expensive consequences in the future.

We urge you to consider the potential negative impacts of this Pilot and other rhetoric downplaying the importance of title insurance in the homebuying process. As you may know, the Consumer Financial Protection Bureau recently included title insurance in its Request for Information on "junk fees in mortgage closing costs."⁶ This apparent classification of title insurance as a "junk fee" may diminish the value consumers place on this protection or incentivize consumers to forego title insurance altogether. Title insurance provides critical protections to homebuyers and lenders, and we do not support any efforts that would undermine those protections.

² Federal Housing Finance Agency, "Title Acceptance Pilot FAQs," FHFA, March 7, 2024, <https://www.fhfa.gov/news/statement/director-sandra-thompsons-statement-on-title-acceptance-pilot>.

³ American Land Title Association, "Analysis of Claims and Claims-Related Losses," May 2024. <https://www.alta.org/business-operations/research-initiatives-and-resources/analysis-of-claims-and-claims-related-losses>.

⁴ First American, *The Risk of Not Curating Property Ownership Records*. 2024. <https://www.firstam.com/value-of-title/the-risk-of-not-curating-property-ownership-records/index.html>

⁵ ALTA, "Seller Impersonation Fraud Study". May 2024. <https://www.alta.org/business-operations/research-initiatives-and-resources/critical-issue-studies/seller-impersonation-fraud-study>.

⁶ Consumer Financial protection Bureau, "CFPB Launches Inquiry Into Junk Fees in Mortgage Closing Costs," May 30, 2024. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-launches-inquiry-into-junk-fees-in-mortgage-closing-costs/>

While we share your desire to address America’s housing affordability challenges, the Pilot will not advance that goal and urge you to halt the process until proven beneficial for homebuyers. Additionally, we ask that you provide responses to the following questions by November 22, 2024.

1. Given the concerns outlined in this letter, how will the Pilot protect consumers from title risks that are not easily discovered by an automated search of the public record? Will other non-public databases be searched and examined for potential encumbrances and to cure potential defects? If so, who will manage that process and what oversight will there be to ensure that consumers are protected?
2. Given that the Pilot would remove title agents from specified refinance transactions and no technology alone can effectively detect fraud, how does FHFA plan to protect consumers participating in the Pilot against the growing threat of seller impersonation fraud?
3. With title companies absent from the process, how will FHFA handle claims that arise on loans acquired through the Pilot? What recourse will be available to homeowners and lenders experiencing title-related problems? Who will cover the costs of rectifying problems when they arise?
4. Given that a lender’s title insurance policy is usually the backstop that prevents the need for foreclosure to recoup losses caused by a title defect, we are concerned this Pilot will give rise to more foreclosures. Has FHFA or the Enterprises performed any analysis to understand the impact that removing title insurance would have on the rate of foreclosures? If so, please provide that analysis.
5. Please provide any analysis of the potential costs to homeowners, lenders, and the Enterprises associated with rectifying future title claims that arise on loans acquired through the Pilot.?

We appreciate your attention to this matter and look forward to working with you in the future to make homebuying secure and accessible.

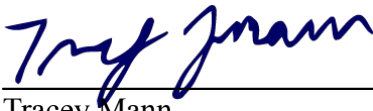
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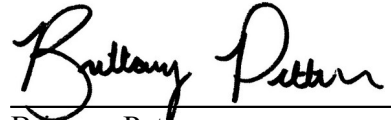
J. Luis Correa
Member of Congress



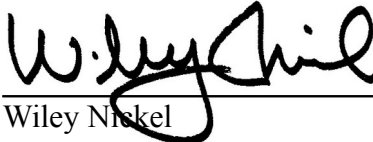
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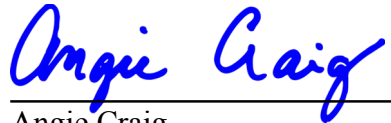
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