Dear Sen. Booher and Rep. Knollenberg:

Agricultural Leaders of Michigan supports an amendment to foreclosure reforms in House Bills 4542 and 4543 currently before the House and Senate banking committees.

The amendment we support will clarify that state law allows a Farm Credit Association (FCA) or the U.S. Department of Agriculture's Farm Service Agency (FSA) to employ the loan modification timelines and procedures mandated by federal law, so long as such timelines exceed the protections of state law. For example, the modification response period for farm loans by these entities under federal law is currently 48 days. By contrast, the response modification period under state law, as proposed by the draft substitutes for these bills, is only 30 days.

This clarification will bring real and much-needed relief to businesses in the agricultural sector that have loans through the FCA or the USDA. Under current law, a farmer who borrows under either the FCA or the FSA and defaults will receive two separate notices from the same lender about the same loan. One notice is mandated by the state, the other by the federal government. These mandated notices conflict with each other, spell out different modification periods and procedures, and create a great deal of borrower confusion at a time of real personal and business distress.

The proposed clarifying amendment, on the other hand, promotes consistency and certainty, which are essential to farmers and others facing foreclosure.

The current situation unfairly discriminates against agricultural borrowers under the FCA and FSA as they are the only borrowers in Michigan who must, by law, receive conflicting and confusing notices about modification procedures. We propose only that we prevent unfair discrimination against this group of borrowers, by recognizing applicable federal standards that offer even greater consumer protections than current or proposed state law.

Additionally, while we applaud your work to include language outlining borrowers' rights in the foreclosure reforms, we must note that those rights are clearly articulated and spelled out for FCA and USDA borrowers, though not for borrowers from commercial banks. Furthermore, the borrowers' rights language in HB 4542-4543 is less generous than the federal language for FCA and USDA borrowers. By supporting the amendment to HB 4542-4543, we can eliminate this duplication, redundancy and additional source of confusion.

ALM looks forward to your support for this amendment. We believe it is an essential safeguard for consumers and businesses that already face tremendous challenges in today's economy.

Please do not hesitate to contact any one of us if we may answer any questions or assist in any way.

Respectfully,

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CC:
Sen. Mike Nofs
Sen. Mike Green
Sen. Jim Marleau
Sen. Tory Rocca
Sen. Tupac A Hunter
Sen. Virgil Smith
Rep. Lisa Posthumus Lyons
Rep. Jeff Farrington
Rep. Frank Foster
Rep. Matt Huuki
Rep. Rick Olson
Rep. Peter Pettalia
Rep. James Womack
Rep. Jon M. Switalski
Rep. Paul Clemente
Rep. Woodrow Stanley

Ag Borrower Consumer Protection Amendments

HB 4542
Page 4, Line 3,

- After "2009." Insert the following: SUBSECTION (4) DOES NOT APPLY TO A MORTGAGE WHICH SECURES PROPERTY USED FOR AGRICULTURAL PURPOSES IF SUCH MORTGAGE IS ALSO SUBJECT TO A BORROWER'S BILL OF RIGHTS UNDER EITHER THE FARM CREDIT ACT OF 1971, AS AMENDED, BEING CODIFIED AT 12 U.S.C. 2001, ET SEQ, OR THE CONSOLIDATED FARM HOME ADMINISTRATION ACT OF 1961, AS AMENDED , BEING CODIFIED AT 7 U.S.C. 1921, ET SEQ, AND WHICH MORTGATE IS FURTHER SUBJECT TO THE RESTRUCTURING OF DISTRESSED LOANS AND THE DEBT RESTRUCTURING AND LOAN SERVICING PROVISIONS OF THOSE ACTS, BUT ONLY SO LONG AS THE PERIODS REQUIRED TO CONSIDER A RESTRUCTURING UNDER THOSE ACTS AND ACCOMPANYING REGULATIONS EXEEDS THE PERIOD THE 30 DAY PERIOD FOR BORROWER RESPONSE AND RIGHTT TO SEEK MODIFICATION IMPOSED UNDER THIS ACT AND ONLY SO LONG AS COMPLIANCE WITH THE SAME SHALL NOT RESULT IN A FORECLOSURE BY ADVERTISEMENT PRIOR TO 90 DAYS AFTER DEFAULT. ANY MORTGAGE FOR PURELY RESIDENTIAL, NON-AGRICULTURAL PURPOSES SHALL BE SUBJECT TO SUBECTION (4) IN ITS ENTIRETY.

These amendments would clarify that state law allows a federal Farm Credit Association or the USDA's Farm Service Agency to engage in the modification procedures mandated by federal law so long as the **federal borrower response and right of modification period EXCEEDS state law** (30 days new state bill vs. 48 days for ag loans). It is a legal impossibility for both entities to comply with conflicting state and federal law and both entities, as GSEs created by federal statute, must comply with federal law in order to maintain their operational charter. The good news is that federal law on this topic provides greater consumer protection than current state law and/or proposed revisions to the foreclosure moratorium law.

- Compliance with longer federal modification periods will not result in a foreclosure prior to 90 days after default and it will result in **MORE CONSUMER PROTECTION FOR AGRICULTURAL BORROWERS**.

- This amendment would **PREVENT AGRICULTURAL BORROWERS FROM BEING UNFAIRLY SINGLED OUT FOR CUSTOMER CONFUSION** as they are the only borrowers in the state who currently receive conflicting state and federal notices for the same loan and from the same lender which lay out different modification periods and procedures.

- This amendment will **end unfair customer confusion for agricultural borrowers, promote greater consumer protections for agricultural borrowers via longer modification response times for the borrower**, and **preserve identical foreclosure dates for all loans**.

- **Amendments would NOT APPLY TO PURELY RESIDENTIAL LOANS** made by either entity. A small but important conflict between state and federal law only occurs for mortgages primarily secure a farming operation which contains a residence. Property.