

May 29, 2007

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington D.C. 20510

The Honorable Richard C. Shelby
Ranking Member
Committee Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington D.C. 20510

Re: Public Welfare Investments and H.R. 1066

Dear Chairman Dodd and Senator Shelby:

The undersigned affordable housing and community organizations, and trade associations seek your support for the Senate passage of the "Depository Institution Community Development Investments Enhancement Act" (H.R. 1066), which was passed by the House on February 5, 2007. H.R. 1066 revises the statutory language for permissible public welfare investments by banks in the National Bank Act and the Federal Reserve Act which was enacted last October in the Financial Services Regulatory Relief Act of 2006 (the "Regulatory Relief Act").

The Regulatory Relief Act authorized banks "to make investments, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs)." This language has several consequences which we believe may not have been fully appreciated when the Act was passed. For example, the language disqualifies banks from making such direct investments that:

- **Revitalize or stabilize designated disaster areas that do not serve communities that were low- or moderate-income ("LMI") prior to the disaster.** Banks currently may not make direct investments in the GO Zone, for example, unless the area served was LMI as of the last census or the investment primarily benefited LMI families. These investments, however, would be CRA eligible regardless of the income levels of the individuals served or the median income of the area as of the last census.

- **Help underserved or distressed rural communities that do not meet the LMI definition.** Public welfare investments in these areas are necessary to attract new or retain existing businesses and residents, consistent with a government revitalization plan. These exclusions especially limit the ability of a bank to respond to critical rural community needs in more than 4,000 census tracts throughout the country.
- **Utilize New Markets Tax Credits in high poverty census tracts where area median incomes do not meet the LMI definition.** Under the current language, some New Markets Tax Credit investments would not be permitted, even though the regulatory agencies allow CRA credit for any New Markets Tax Credit investment.
- **Provide mixed-income affordable housing in areas targeted for revitalization or in conjunction with government-sponsored housing initiatives.** Workforce housing, inclusionary zoning and other types of mixed income multifamily rental housing programs are increasingly being used by state and local governments to promote affordable housing. If less than 50% of the multifamily rental units are affordable housing or the project is not in an LMI community, then banks' investments are no longer permitted.

Prior to passage of the Regulatory Relief Act, banks could make the above direct investments under the public welfare test. Now, the only way banks can make these now-excluded investments, however, is indirectly through a fund or non-bank intermediary and only if the types of excluded investments described in this letter comprise less than 50 percent of the fund's or intermediary's activities. In many communities, such intermediaries do not exist or may not be in a position to provide the financing needed.

H.R. 1066 remedies the restrictions applicable to banks' direct public welfare investments by permitting banks "to make investments, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services or jobs)." This will restore the investment authority to the breadth previously implemented by regulation prior to the passage of the Regulatory Relief Act. Communities will be the ultimate beneficiaries of this revised language because banks will be able to work with their community partners on projects to help build affordable housing and make other direct investments that they are currently prohibited from making.

H.R. 1066 also authorizes public welfare investments up to 15% of a thrift's capital and surplus. This will allow approximately \$20 billion in public welfare investments by federal savings associations.

We urge your support in helping to pass H.R. 1066. If you have any questions, please do not hesitate to contact Anne Canfield, Consumer Mortgage Coalition, ((202) 742-4366, anne@canfieldassoc.com), for further information.

Sincerely yours,

Affordable Housing Tax Credit Coalition
American Bankers Association
America's Community Bankers
Community Development Venture Capital Association
Consumer Bankers Association
Consumer Mortgage Coalition
Enterprise Community Partners
Enterprise Corporation of the Delta
Independent Community Bankers of America
International Economic Development Council
Local Initiatives Support Corporation
Mortgage Bankers Association
National Alliance of Community Economic Development Associations
National Association of Affordable Housing Lenders
National Association of State and Local Equity Funds
National Housing Conference
National Trust Community Investment Corporation
New Markets Tax Credit Coalition
The Community Preservation Corporation
The Financial Services Roundtable

cc: S. Maher
Wm. Duhnke