



December 8, 2010

**VIA ELECTRONIC MAIL**

The Honorable Sherrod Brown  
U.S. Senate  
713 Hart Senate Office Building  
Washington, DC 20510

Re: Aiding Those Facing Foreclosure Act of 2010, S. 3979

Dear Senator Brown:

The Center for Responsible Lending,<sup>1</sup> the National Association of Consumer Advocates,<sup>2</sup> and the National Consumer Law Center (on behalf of its low-income clients)<sup>3</sup> are writing to thank you for your leadership in introducing the Aiding Those Facing Foreclosure Act of 2010 (S.3979), which clarifies that Troubled Assets Relief Program (“TARP”) funding, authorized under the Emergency Economic Stabilization Act of 2008 (“EESA”), can be used to provide foreclosure prevention legal assistance to homeowners.

We disagree with the current overly restrictive interpretation by the U.S. Department of Treasury regarding the permissible uses of TARP funding, through the Hardest-Hit Fund (“HHF”) state programs, which states that the funding can go toward consumer counseling but not toward legal assistance. While we are pleased that consumer counseling is an allowable expenditure of funds under HHF programs, we do not see any basis for excluding legal assistance aimed at the same goal of preventing foreclosure, and we therefore fully support amending EESA to provide funding to nonprofit legal organizations to offer legal assistance to homeowners as well.

As organizations that work directly with legal services attorneys, we see first-hand the important assistance that non-profit legal services groups provide to low-to-moderate income families facing foreclosure. Legal services programs play an integral role in foreclosure prevention for homeowners by identifying illegalities in the mortgage origination process; assisting with loan modification

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<sup>1</sup>The **Center for Responsible Lending** (CRL) is a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, a nonprofit community development financial institution.

<sup>2</sup> The **National Association of Consumer Advocates** (NACA) is a non-profit corporation whose members are private and public sector attorneys, legal services attorneys, law professors, and law students, whose primary focus involves the protection and representation of consumers. NACA’s mission is to promote justice for all consumers.

<sup>3</sup> The **National Consumer Law Center, Inc.** (NCLC) is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low income consumers across the country. NCLC has provided oral and written testimony to Congressional Committees on foreclosure and numerous related topics. NCLC publishes a series of eighteen practice treatises and annual supplements on consumer credit laws.

applications and the modification process; representing homeowners in complex court filings and mediation programs; and advising homeowners on bankruptcy protections. For example, the systemic problem of “robo-signers” would not have been discovered without aggressive, competent legal services attorneys – some of whom are pro bono volunteers – working diligently to represent their clients. These same attorneys could be a valuable part of a state’s overall Hardest-Hit Fund plan.

At a time when record numbers of families are struggling with foreclosure, loss of employment, and surmounting debt, the need for legal services representation has grown exponentially. Cuts in funding for civil legal services at the federal, state and local level, as well as reductions in the proceeds from Interest on Lawyers Trust Accounts (“IOLTA”) and a downturn in private giving have come at a time when it has never been more urgently needed. For every person legal services providers help with a foreclosure case, they must turn away two more.

Finally, the Institute for Foreclosure Legal Assistance (IFLA)<sup>4</sup>, a nonprofit organization that is currently the largest source of private grants to support foreclosure prevention programs in legal aid, will run out of funding in 2011. Without new funding, the experienced attorneys hired through IFLA may lose their jobs, and IFLA’s training and data infrastructure will be at risk.

We thank you for introducing the Aiding Those Facing Foreclosure Act, and we stand ready to support this valuable piece of legislation in any way that we can.

Sincerely,

Center for Responsible Lending

National Association of Consumer Advocates

National Consumer Law Center (on behalf of its low-income clients)

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<sup>4</sup> The **Institute for Foreclosure Legal Assistance** (IFLA) is a not-for-profit program created by the Center for Responsible Lending and managed by the National Association of Consumer Advocates, which has provided funding and training to enable over 35 organizations in 26 states to hire attorneys to represent homeowners facing foreclosure.