Preserving Homes and Communities Act

Background

FHA, Fannie Mae, and Freddie Mac protect their balance sheets by periodically selling nonperforming mortgages to investors. Fannie Mae and Freddie Mac also often sell reperforming mortgages. Both FHA and the GSEs began conducting these transactions, known as note sales, in the wake of the Great Recession. While FHA and the GSEs are meant to expand affordable homeownership, the note sale process harms many low- and moderate-income borrowers and shifts property ownership from local households to institutional investors.

Mortgages included in note sales lose their federal loss mitigation protections once the sale is finalized – leaving borrowers at greater risk of foreclosure. FHFA and FHA data show that the majority of homeowners with mortgages sold in nonperforming note sales over the past decade ultimately lost their homes. Note sale pools are also predominately sold to institutional investors, not local entities that will ensure mortgages and homes remain owned within local communities.

Proposal

The Preserving Homes and Communities Act would strengthen loss mitigation protections for homeowners with mortgages included in note sales and help keep long-term control of note sale properties within local communities.

Protecting Homeowners:

- FHA and the GSEs could not include any mortgage in a note sale until all FHA or FHFA-required loss mitigation options have been exhausted;
- Note sale purchasers would be required to offer eligible borrowers a combination of loss mitigation options on terms at least as favorable as the options available to them before the note sale, a deferral program, and payment relief, depending on the type of note sale.
- FHA and the GSEs would be required to provide borrowers at least 90-day notice in advance of any note sale involving their mortgage.

Keeping Homes in Communities:

- FHA and the GSEs would be required to give local entities, including states, municipalities, and nonprofits, first crack at note sale purchases – before institutional investors.
- Nonperforming note sale purchasers would be required to offer at least 75% of foreclosed properties:
  - To owner-occupants at fair market value;
  - To non-profits or local governments; or
  - To renters with income at or below 100% AMI.
- Would set robust FHA and FHFA data reporting requirements to better track loss mitigation and foreclosure rates for mortgages included in note sales.