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National Association of Federally-Insured Credit Unions

April 9, 2020

The Honorable Larry Hogan
Chairman
National Governors Association
100 State Circle
Annapolis, Maryland 21401

**RE: Relief for Credit Unions Resulting from Property Tax Burden on
Nonperforming Mortgage Loans Related to the COVID-19 Pandemic**

Dear Governor Hogan:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing to seek relief for credit unions regarding the imminent payment of real property taxes regarding mortgage loans which are nonperforming due to the COVID-19 pandemic. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products. During the pandemic, credit unions are attempting to continue their own operations safely, make new loans to affected borrowers and small businesses, and carry the costs associated with nonperforming mortgage loans at the same time. This combination threatens to put a significant strain on credit union capital. In order to provide some relief for credit unions, NAFCU would urge the governors of the United States of America to issue instructions to the appropriate tax assessment authorities in their respective jurisdictions delaying tax bill deadlines until the fall.

The safety and well-being of our nations consumers is the top priority during this crisis, and credit unions are committed to assisting their members who have been economically affected by the pandemic. The *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) established important protections for borrowers who may be temporarily unable to pay their mortgage. Under the CARES Act, Sections 4022 and 4023 provide most borrowers with forbearance options for single-family and multifamily loans, respectively. Under Section 4022, the borrower may request a special forbearance on loan payments for up to 180 days, with an option for an additional 180-day extension. These requests may be made through the covered period, which although not explicitly defined in this section, may be interpreted to mean from the date of enactment (March 27, 2020) through the earlier of the termination date of the national emergency or December 31, 2020.¹ During this period, credit unions expect many of their members to submit requests for forbearance as countless individuals may be furloughed or laid-off from their jobs as a result of the COVID-19 pandemic and facing hardship.

¹ This definition of “covered period” may be interpreted based on the covered period listed in CARES Act Section 4023(f)(5).

Most states structure the payment of real property taxes in installments, rather than in a single payment. Approximately 36 states have real property tax installments that come due between March and July.² While not currently required by law, it is standard industry practice to advance payment of real property taxes regardless of the performance status of a loan. Failing to pay property taxes can result in the complete loss of the credit union's rights in the collateral. This, in turn, results in the devaluation of the credit union's assets and decrease in its net worth. This is a risk unacceptable to credit unions and, for that reason, they will nearly always make a business decision to pay property taxes when they are due.

However, this cost is one of many mortgage loan costs which credit unions must carry. Others include, but are not limited to, the cost of property hazard insurance, flood insurance, and payments to investors on the mortgage. With a significant volume of forbearance applications expected over the next few months and no relief on the required expenditures related to these loans, credit unions may see a negative impact on their net worth as they are forced to use capital reserves to cover these costs.

Although depository institutions generally do have regulatory capital reserves and access to liquidity sources, credit unions are uniquely limited in their capital options. Credit unions are subject to a statutorily defined capital framework that provides limited options for external sources of capital. A credit union's net worth is generally defined as "the credit union's retained earnings balance, as determined under generally accepted accounting principles;" and in the case of low-income designated credit unions, secondary capital accounts may also be counted toward net worth.³

Although the credit industry is safe and sound, the COVID-19 pandemic has created unprecedented stresses on credit union capital and liquidity. Most credit unions are small businesses. Like many other small businesses, they are struggling to determine how they can make payroll and fund operations which are critical to the infrastructure of our nation. Credit unions are preparing to fund new loans to provide their members with relief during this time, with limited capital and without the reliable income of loan payments. In this context, credit unions must also find the liquid cash to fund payments on real property taxes and other mortgage-related costs to protect the value of their collateral and the value of the American mortgage industry as a whole. For credit unions to do otherwise on a significant scale could result in mass failures of community credit unions, consolidation of the credit union industry and, potentially, the devaluation of loans pooled in mortgage-backed securities sold on the secondary market similar to the 2008 recession.

² These states include Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Virginia, Washington, West Virginia, and Wyoming. *See*, National Property Tax Group, Tax Calendar located at <https://nptg.com/tax-calendar/> (Last accessed April 1, 2020).

³ 12 U.S.C. 1757a(c)(2).

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On April 1, 2020, Federal Home Financing Agency (FHFA) Director Mark A. Calabria stated that 20 million borrowers could likely apply for forbearances by May 2020.⁴ Advances of real property taxes on this scale is a crippling expense for credit unions at this time. If real property tax authorities across the United States would extend tax payment deadlines in the summer and spring into the fall, that would create some relief for credit unions during which time other solutions to the strain on capital and liquidity can be determined. This relief would prohibit a negative impact on credit union net worth and free up capital to make loans to affect consumers and small businesses.

Ensuring the safety and health of American citizens is paramount in this moment. However, considering the current economic crisis, preserving the safety and soundness of our nation's credit unions and our mortgage industry is another important objective. Thank you for your consideration and attention to this important matter. If you have any questions or concerns, please do not hesitate to contact Senior Regulatory Counsel, Elizabeth LaBerge at (703) 842-2272 or elaberge@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Dan Berger', with a stylized flourish at the end.

B. Dan Berger
President and CEO

⁴ Calabria, Mark A. Interview with Diana Olick. *CNBC* (April 1, 2020). Available at <https://www.cnbc.com/2020/04/01/chief-regulator-says-mortgage-bailout-is-on-the-honor-system.html> (Last accessed April 2, 2020).