AMERICANS
FOR FINANCIAL REFORM
ACCOUNTABILITY * FAIRNESS * SECURITY

Americans for Financial Reform
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Dear Member of Congress,

We are writing to ask that you oppose H.R. 1077, which promotes steering borrowers into more expensive loans. Specifically, this bill creates new loopholes that would allow loans with higher costs and fees to improperly meet the Qualified Mortgage (QM) standard established in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Congress should refrain from weakening the Qualified Mortgage standard and reject this bill.

The mortgage reforms in Title XIV of Dodd-Frank were put in place as a direct response to the deceptive and unsound mortgage lending practices and products that put borrowers into risky, high-cost loans they could not understand or afford. First, the Ability to Repay provision requires all lenders to reasonably determine whether a borrower has an ability to repay a mortgage. Second, lenders can demonstrate their compliance with the Ability to Repay requirement by originating loans that meet the Qualified Mortgage definition. Providing QM loans benefits borrowers because these loans are restricted from having risky terms. This includes a cap on "points and fees" – which account for a loan's origination costs – that exceed 3 percent of the loan amount. This borrower protection prevents loans with more expensive origination costs from gaining QM status.

H.R. 1077 would weaken the consumer protections of QM loans by legislating a group of exceptions to get around the 3 percent points and fees threshold. These exceptions include exempting compensation paid to mortgage brokers and loan officers and title insurance paid to a company affiliated with a lender from counting toward the 3 percent cap.

The approach taken in this bill, which is misleadingly named the Consumer Mortgage Choice Act, is a flashback to the recent subprime crisis. During the subprime lending boom, borrowers often paid excessive origination costs, and increased compensation paid to loan originators often fueled these high fees. For example, in the case of many loans originated through mortgage brokers, borrowers paid once through cash payments made at closing and a second time through an increased interest rate used by the lender to fund a yield spread premium payment to the mortgage broker. These inflated origination costs stripped borrowers of valuable home equity – built over years of steady payments in the case of refinance loans – and simultaneously trapped them in loans with inflated interest rates.

Inflated loan costs were particularly harmful for African-American and Latino borrowers, who were disproportionately targeted and steered into more expensive loans than they would have otherwise qualified for. By creating broad exceptions from the 3 percent points and fees threshold for QM loans, this bill would create a new kind of incentive for future abusive lending that overcharges consumers.

The title insurance-related exception in H.R. 1077 would make it easier for some lenders to evade the 3 percent points and fees cap and overcharge borrowers. Borrowers are responsible for paying title insurance costs, but the price for this product is agreed upon between the lender and the title insurance company. The incentives to increase the title insurance revenue paid by borrowers are enhanced when lenders are coordinating with their own affiliates that provide title insurance. To make matters more complicated, borrowers are often unaware when a lender and a title insurance company are affiliated with one another. This opaque system leaves borrowers with little information and leverage to get a better price. Instead of providing borrowers with true competition, exempting title insurance costs paid to a company affiliated with the lender from the points and fees cap would further entrench incentives to overcharge borrowers for title insurance. This would be a step backwards for borrowers.

In addition to being bad policy, H.R. 1077 would also undermine the Consumer Financial Protection Bureau's ongoing rulemaking process. The Bureau is currently finalizing the Qualified Mortgage rulemaking, and Congress should not interrupt this rulemaking by passing a bill that weakens borrower protections.

Households and communities across the country have yet to recover from the recent subprime lending crisis, and Congress should learn from the past instead of creating incentives to repeat these lending abuses. As a result, the undersigned organizations oppose H.R. 1077 and ask that you not support this bill.

Sincerely,

National Signatories:

Alliance for a Just Society
Americans for Financial Reform
Center for Responsible Lending
Common Good
Consumer Action
Consumer Federation of America
Home Defenders League
NAACP
National Association of Consumer Advocates
National Association of Neighborhoods
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low income clients)
National Council of La Raza

National Fair Housing Alliance
National People's Action
Organize Now
The Leadership Conference on Civil and Human Rights
The NAACP Legal Defense and Educational Fund, Inc. (LDF)
Woodstock Institute

State and Local Signatories:

Action NC
Action United (Philadelphia, PA)
Arkansans Against Abusive Payday Lending
Arkansas Community Organizations
Baltimore Neighborhoods, Inc.
Center for NYC Neighborhoods
Common Good Ohio
Connecticut Fair Housing Center
Ed Valenzuela, Ph.D., Chairman, Tempe Hispanic Community Forum
ESOP: Empowering and Strengthening Ohio's People
Fair Housing Advocates Assocation (Akron, OH)
Fair Housing Center of Central Indiana in Indianapolis
Fair Housing Center of Northern Alabama
Fair Housing Center of West Michigan
Fair Housing Continuum, Inc. in Melbourne, Florida.
Fair Housing Napa Valley
Fair Housing of Marin
Greater New Orleans Fair Housing Action Center
Home Opportunities Made Equal of Virginia
HOPE Fair Housing Center (Wheaton IL)
Housing Equality Law Project (HELP) (California)
Housing Opportunities Project for Excellence, Inc (Florida)
Inland Fair Housing and Mediation Board (California)
Long Island Housing Services, Inc.
Miami Valley Fair Housing Center in Dayton, Ohio.
NEDAP (New York)
New Jersey Citizen Action
NJ Communities United
North Texas Fair Housing Center
Open Communities (Winnetka, IL)
Organize Now (Orlando, FL)
Savannah-Chatham County Fair Housing Council, Inc.
South Suburban Housing Center
The Housing Research & Advocacy Center (Cleveland, OH)
Toledo Fair Housing Center