November 14, 2007

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

The undersigned groups are writing in anticipation of floor action on H.R. 3915, the "Mortgage Reform and Anti-Predatory Lending Act of 2007." We appreciate the bipartisan effort on this important issue and look forward to working with the Congress to pass a strong law to protect consumers from predatory lenders. Unfortunately, however, despite some important consumer protections, we cannot support the legislation in its present form, given the lack of strong remedies for borrowers who receive unaffordable loans combined with preemption of stronger state laws in this area.

There is an appropriate role for responsible, sustainable subprime lending. Unfortunately, in recent years, subprime lending has been dominated by unaffordable, complex loan products that borrowers do not understand and lenders do not properly underwrite. Many subprime loans and exotic prime loans are underwritten – if at all – only to a low teaser rate, which typically lasts just two or three years, and sometimes far less. These loans also usually contain costly prepayment penalties that penalize and trap borrowers, preventing them from refinancing into a more affordable loan.

These loans have been particularly problematic for low-income, minority, and older homeowners, many of whom are living on limited incomes. Predatory lending even affects families who own their home outright, without a mortgage. These homeowners may need to tap into the equity in their homes because of high medical costs, necessary home repairs, or emergencies; some are unfortunately victimized by predatory lenders who offer exploding adjustable rate mortgages that these borrowers cannot afford to repay after the teaser rate expires. At that point, they face default and, ultimately, foreclosure – potentially losing their homes and a lifetime of savings.

As previously mentioned, there are a number of important consumer protections in this bill, including provisions that would:

- Require sound underwriting for subprime loans. Loans must be affordable and refinancings must provide a net benefit to borrowers.
- Limit prepayment penalties.
- Expand the definition of a high-cost loan under the Home Ownership and Equity Protection Act (HOEPA) to expand the universe of loans covered by this law.

During floor consideration, we anticipate attempts to weaken these and other protections, and we urge you to oppose any such effort to do so, including through the motion to recommit.

The Manager's Amendment contains several important changes to the base bill, including:

- Clarifying the preemption language to ensure that firms that buy loans in the secondary market remain responsible for their direct involvement in making unaffordable loans, as well as for actions they may take in violation of state laws related to fraud, deception, false advertising, and civil rights laws. We support this change but remain concerned about the preemption language that remains in the bill. The manager's amendment, while narrowing the scope of preemption, still preempts strong state laws that provide remedies against financial firms that deal in abusive predatory mortgage loans. This represents a loss of protections for millions of homeowners.

- Giving borrowers who receive loans that violate the ability to repay or net tangible benefits standards of the bill the right to a "cure" (a workout in which the loan no longer violates the standards in the bill), in cases when the creditor has gone out of business. We support this addition as well, but we remain concerned that borrowers may have no meaningful remedy in cases when the creditor is in business but cannot "cure" the loan because it has been sold to another entity. Borrowers who have received illegal loans should not be left without a remedy. Stronger remedies are important not only for borrowers who are victimized, but also to ensure that companies that engage in or profit from predatory mortgage lending have an incentive to abide by the standards in the bill.

- Significant weakening of the protections against steering, which we strongly oppose. The manager's amendment allows mortgage brokers to receive bonus payments for steering consumers into higher-cost loans than they qualify for, as long as it is disclosed. Brokers should be paid the same no matter what loan the borrower chooses, as was the case in the underlying bill.

As the bill moves to the floor, we remind you that predatory lending practices at all levels have created the mortgage crisis that we face today. We need to deter such behavior in the future. As this bill is considered, we urge you to support amendments that will strengthen remedies and deter predatory lenders, and oppose amendments that would weaken the bill, such as by expanding the preemption of stronger state laws.

Sincerely,

David P. Sloane
Senior Managing Director
Government Relations & Advocacy
AARP

Michael Calhoun
President
Center for Responsible Lending

Greg Jefferson
Legislative Representative
AFL-CIO

Shanna Smith
President and CEO
National Fair Housing Alliance

Allen Fishbein
Director of Housing and Credit Policy
Consumer Federation of America