December 7, 2017

Dear Representative,

The undersigned organizations oppose H.R. 2570, the Mortgage Fairness Act of 2017. H.R. 2570 will make the market less fair by making it easier for lenders to steer homeowners into high-cost, abusive deals on certain mortgages, especially on home equity lines of credit and construction loans. High-cost mortgage loans come with special protections, but this bill will allow lenders to evade those extra rules. Under H.R. 2570, certain high cost loans would no longer fall within the "high cost" protections threshold.

Coverage under the high-cost loan rules is determined by either the interest rate on the loan or the "points and fees" charged on the loan. Now, kickbacks called "yield spread premiums" count as "points and fees" and contribute to whether a loan warrants high-cost loan protections. These kickbacks are a pernicious form of incentive payment to mortgage originators that has been shown to contribute to steering, discrimination, and lending without regard to ability to repay. These kickbacks are so bad that that Dodd-Frank restricted them for more typical, "closed-end" home mortgages. But they are still legal in other loans--like home equity lines of credit and certain construction loans.

Home equity lines of credit are often used for second mortgages and can be used to purchase homes. In 2015, over $100 billion in new home equity lines of credit loans were made. Research from the Center for Responsible Lending has shown that almost 90% of all brokered subprime mortgages contained yield spread premiums. In one year alone, an estimated 1.5 million families incurred loans slated to cost $2.6 billion more per year as a result of extra interest charges associated with yield-spread premiums.

The high-cost loan rules currently discourage kickbacks on loans where they are still allowed because these payments count toward the coverage threshold based on points and fees. H.R. 2570 would exclude kickbacks from this trigger, creating an incentive for loan originators to steer borrowers to overpriced loans without getting the benefit of the high-cost loan protections. A better solution would be to expand the restrictions on these kickbacks to all mortgages and make home equity lines of credit subject to the Dodd-Frank protections.

The supporters of the bill point out that these kickback payments are incorporated into the interest rate and claim that also including it in the points and fees test is redundant. Incorporation into the interest rate is the mechanism used to ensure that the borrower is the one who is actually funding the kickback that promotes steering. But this does not necessitate a carve-out from the points and fees threshold for high-cost loan protections. The high cost thresholds are alternatives—either a loan meets the test due to its interest rate or due to the points and fees test.

Accordingly, inclusion of the yield spread premium in the points and fees threshold is not redundant. Moreover, the yield spread premium is separately listed on the closing documents exactly because it is a fee. In fact, many fees that count toward the points and fees threshold are also incorporated into the annual percentage rate used for the high-cost rate threshold. Carving out these kickbacks from the high-cost coverage rules would disrupt the inclusive approach Congress adopted and promote abusive loan steering and price gouging.

We urge you to oppose H.R. 2570. A vote to support this bill is a vote to promote predatory mortgage lending.

Sincerely,

Allied Progress
Americans for Financial Reform
Center for Responsible Lending
Consumer Action
NAACP
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
U.S. PIRG
Woodstock Institute
Public Counsel (CA)
Housing and Economic Rights Advocates (CA)
Connecticut Fair Housing Center (CT)
Jacksonville Area Legal Aid, Inc. (FL)
Public Justice Center (MD)
Long Island Housing Services, Inc. (NY)
Center for NYC Neighborhoods (NY)
Philadelphia Unemployment Project (PA)