July 24, 2014

Dear Senator,

We are writing to urge you to oppose S. 1577—the "Mortgage Choice Act of 2013." This bill reintroduces some of the higher fees borrowers faced in the lead up to the mortgage crisis; fees that the new mortgage rules were designed to prevent. Specifically, this bill creates a loophole that would allow loans with higher costs to the borrower 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 QM standard and reject this bill.

S. 1577 would allow many more risky, high-cost loans to qualify as QM loans by creating exceptions to the points and fees threshold. These exceptions would exclude fees paid to certain title companies affiliated with the lender. The points and fees definition is designed to include all compensation received by the lender. It is a reasonable standard that provides basic protections for homebuyers.

The title insurance market is a broken market. In 2007, a GAO report concluded that borrowers "have little or no influence over the price of title insurance but have little choice but to purchase it." As a result, the fees are grossly inflated—recent studies have found that between five and 11 cents is paid out in claims for each $1 of premiums. Almost the entirety of a title insurance premium (approximately 70%) goes to commissions, not insurance coverage. In contrast, loss ratios for health insurance are minimally 80% and ratios for auto insurance fluctuate between 50% and 70%. Borrowers already pay inflated title insurance costs. Including affiliated title insurance fees in the QM defined points and fees cap will not solve all the problems in the market but the rule provides important market pressure to control costs.

The current QM protections represent an appropriate step to directly address recent problems for borrowers without impacting access to credit. Creating a title insurance loophole in the statute would eliminate one important protection to keep costs to borrowers from escalating further.

We welcome the opportunity to engage in a discussion for a comprehensive fix to the flaws in the current title insurance market. However, incentivizing an already overpriced market to further raise rates for borrowers is no solution.

The undersigned groups strongly urge you to oppose S. 1577—which will neither benefit consumers nor expand access to credit.

Sincerely,

Americans for Financial Reform
California Reinvestment Coalition
Center for Responsible Lending
Connecticut Fair Housing Center
Consumer Action

Consumer Federation of America
Empire Justice Center
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National People's Action
The Leadership Conference on Civil and Human Rights