March 18, 2015

Dear Member of Congress:

We are writing to urge you to oppose H.R. 685, The Mortgage Choice Act of 2015. This bill will unnecessarily raise the cost of mortgages for millions of prospective homebuyers by allowing some of the higher fees borrowers faced in the lead up to the mortgage crisis. Specifically, the bill creates a loophole in the new rules 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 (Dodd-Frank). Congress should refrain from weakening the QM standard and reject this bill.

H.R. 685 would allow 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. The provisions of Dodd-Frank are an extension of the decades of existing federal law and policy of affiliated title fees being included in cost calculations due to the history of lenders using affiliates to needlessly charge higher fees to borrowers. In 2007, a GAO report[1] 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 70 cents of every premium dollar for title insurance goes to commissions, whereas the loss ratios range between 5% and 11%. In contrast, loss ratios for health insurance are minimally 80% and ratios for auto insurance fluctuate between 50% and 70%.

H.R. 685 also harms less expensive title insurers that are not affiliated with lenders who originate QM loans. The bill encourages lenders to increase steering to their own affiliates, making it even more difficult for less expensive direct to consumer insurers.[2] Increased loan fees mean borrowers will bear the cost of hundreds, if not thousands of dollars of needless mortgage fee expenses.

The current rules, which include 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 faced by borrowers without impacting access to credit.

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[1] U.S. GOVERNMENT ACCOUNTABILITY OFFICE, TITLE INSURANCE: ACTIONS NEEDED TO IMPROVE OVERSIGHT OF THE TITLE INDUSTRY AND BETTER PROTECT CONSUMERS 53 (2007), *available at* http://www.gao.gov/new.items/d07401.pdf.

[2] Leslie Scism And Alan Zibel, Title Insurance for Less? A new breed of insurance company is promising discounts for home buyers, *Wall Street Journal*, March 28, 2014, *available at* http://www.wsj.com/articles/SB10001424052702303949704579461824103140960.

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 and will serve as yet another barrier to housing and economic recovery.

We urge Congress to reject H.R. 685—which harms consumers by increasing the costs of their mortgages, and therefore does not expand access to credit.

Sincerely,

Americans for Financial Reform
Consumer Federation of America
Center for Responsible Lending
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
The Leadership Conference on Civil and Human Rights