

August 27, 2018

The Honorable Mitch McConnell
The Honorable Charles Schumer
The Honorable Richard Shelby
The Honorable Patrick Leahy
The Honorable Mike Crapo
The Honorable Sherrod Brown
The Honorable James Lankford
The Honorable Christopher Coons

Dear Senator:

The undersigned organizations request that you support keeping the language of H.R. 1153, “The Mortgage Choice Act” in the conferenced version of the 2019 Financial Services and General Government Appropriations bill. The language is included in the House version: H.R. 6258, “The Financial Services and General Government Appropriations Act, 2019.”

H.R. 1153 is bipartisan legislation introduced by Representatives Bill Huizenga (R-MI), Gregory Meeks (D-NY), Ed Royce (R-CA), David Scott (D-GA), Steve Stivers (R-OH), Mike Doyle (D-PA), and David Joyce (R-OH). In this Congress, the bipartisan Mortgage Choice Act (H.R. 1153) passed the House in February of 2018 by a vote of 280-131. The legislation passed in earlier Congresses by similar majorities or by voice vote and has enjoyed bipartisan support in the Senate as well with similar legislation introduced by Senators Manchin, Toomey, Stabenow, Portman, Klobuchar, and Isakson in a previous Congress. It would make two minor adjustments to the Truth in Lending Act (TILA) definition of points and fees to ensure greater consumer choice in mortgage and settlement services under the Ability to Repay/Qualified Mortgage (QM) rule.

The QM rule sets the standard for consumer mortgages by providing significant compliance certainty to loans that meet strict requirements. A key requirement is that points and fees for a QM may not exceed 3 percent of the loan amount. The problem arises from the fact that, under current law and rules, what constitutes a “fee” or a “point” towards the points and fees cap varies greatly depending upon who is making the loan and what arrangements are made by consumers to obtain title insurance. If the consumer chooses a title insurance provider that is affiliated with the lender, the title insurance charges count, but if the insurance is purchased from an unaffiliated title agency, the title charges do not count.

In addition, escrowed homeowners insurance premiums may count as “points and fees” as well. The inclusion of either title insurance or escrowed homeowners’ premiums has caused many loans, especially those for low- and moderate-income consumers, to fail the QM test in situations where the consumer elected to use one stop-shopping for their settlement services. As a result, many otherwise qualified borrowers could not avail themselves of in house services and/or may have received a higher interest rate, increased closing costs or both.

Indeed, members of a number of the undersigned associations produced comparison data on the costs of using affiliated and unaffiliated title in recent transactions. One lender with broad national reach reported that its title cost per thousand was the lowest amongst its competitors and those borrowers in states like Ohio, Montana, and New Jersey saw significant savings when they used the

affiliate title. Similarly, another lender with a national footprint demonstrated significant consumer savings in New York, West Virginia, and Alabama when the affiliate was used. This data demonstrates that affiliate services are competitive. Furthermore, decades of Harris survey data demonstrate that not only do consumers want the choice of using affiliates but that it can also save them time and money. Couple that with the added disclosure and protections afforded by RESPA and there is no reason why consumers at all income levels should not be able to avail themselves of the choice of using one stop shopping.

H.R. 1153 endeavors to restore a full and open competitive market by clarifying the definition of fees and points. In doing so, the legislation will ensure consumers more choices in credit providers and settlement service options. For these reasons, we ask that you support keeping the “The Mortgage Choice Act” in the final version of the FSGG appropriations bill.

Sincerely,

The Community Mortgage Lenders of America
Consumer Mortgage Coalition
Credit Union National Association
Housing Policy Council of the Financial Services Roundtable
Leading Builders of America
Leading Real Estate Companies of the World
Mortgage Bankers Association
National Association of Homebuilders
The National Association of REALTORS®
Real Estate Services Providers Council, Inc. (RESPRO®)
The Realty Alliance