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April 16, 2012

The Honorable Spencer Bachus
Chairman, House Financial Services Committee
2246 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

On behalf of the 1.1 million members of the National Association of REALTORS® (NAR), I urge you to cosponsor H.R. 4323, "The Consumer Mortgage Choice Act." The Consumer Mortgage Choice Act is bipartisan legislation introduced by Representatives William Huizenga (R-MI), Ed Royce (R-CA), Lacy Clay (D-MO), and David Scott (D-GA) that makes corrections to the calculation of fees and points under the Home Ownership Equity Protection Act (HOEPA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

The "Ability to Repay" provisions of Dodd-Frank include among other provisions, a provision that if a loan's fees and points do not exceed 3%, the loan will be considered a "Qualified Mortgage" (QM). NAR believes that the QM will define the universe of readily available mortgages for a long time to come and non-QM mortgages will be rarely made. The problem is that the calculation of fees and points under the 3% cap discriminates against real estate and mortgage firms with affiliates involved in the transaction. This legislation corrects the discrimination and levels the playing field between affiliated and unaffiliated firms and also makes a technical correction that prevents the potential double-counting of compensation against the 3% cap.

The basic definition of fees and points covers what is often traditionally thought of as fees and points in the industry. However, when an affiliate is involved, additional items must also be included under the HOEPA definitions including title charges and money that is held in escrow to pay homeowners insurance and possibly even property taxes. In the case of title charges, this industry is heavily regulated at the state level with 44 states requiring rates to be filed or set by the state so the differences among providers are not likely to be significant. With regard to escrow, those charges are paid to third parties or the state uninvolved in the transaction. In both cases, it makes no sense to discriminate against the affiliated lender by making them count these charges toward fees and points when an unaffiliated lender would not.

If these provisions are not corrected, up to 26% of the market or more could be affected. The ultimate effect would be that consumers would be denied the choice of using in house services and there would be less competition in the lending and settlement services industry as well likely reduced access to credit.



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The choice of affiliated services has achieved growing popularity over the years and in the most recent Harris Interactive Survey on the topic (December 2010), consumer satisfaction levels were a full 10 points higher for those who used affiliates than for those who did not. Consumers reported that using affiliated services saved them money (78%), made the process more manageable and efficient (75%), prevented things from falling through the cracks (73%), and was more convenient (73%).

For these reasons NAR is urging you to cosponsor this legislation and promptly advance it through the committee process. The National Association of REALTORS® is happy to provide any further information regarding this legislation and its impact on homebuyers and the industry and looks forward working with you to address this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Moe', with a horizontal line underneath it.

Maurice "Moe" Veissi
2012 President, National Association of REALTORS®