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PRESS RELEASE

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“Trust in Lending” Legislation Introduced in Richmond Bill will address mortgage broker accountability

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Delegate Jennifer McClellan and Senator Donald McEachin filed legislation today to add a layer of protection for Virginia homeowners when dealing with mortgage brokers. The Trust in Lending Act (H.B. 1776) requires mortgage brokers in Virginia to act in the best interest of their clients. Spurred by inequities in the mortgage origination system, McClellan and McEachin worked with Housing Opportunities Made Equal (HOME) to draft the bill.

“The Trust in Lending Act is essential in providing protection for people when they’re getting a new mortgage or refinancing,” said McClellan. “Borrowers hire a mortgage broker as a trusted professional. They deserve to be able to count on that trust.”

McEachin added that the bill is targeted in scope. “This legislation won’t affect banks or lenders. It specifically applies to duties of mortgage brokers when dealing with borrowers.”

Mortgage brokers have become an increasing presence in the mortgage origination market. According to the Mortgage Bankers Association, as of 2006, brokers were originating 45 percent of all mortgages, and 72 percent of all subprime loans. And defective subprime products are the source of the wave of foreclosures sweeping Virginia.

Most borrowers believe that brokers act in their best interests, and that brokers work to find borrowers the best loan for which they qualify. Indeed, many mortgage brokers do serve the interests of their clients professionally and responsibly.

However, in the existing mortgage origination system, skewed financial incentives invite abuse and offer little recourse for borrowers who are harmed in the process. Under the current structure, brokers make a quick profit when the loan is closed, and pass the loan to the lender, maintaining no long-term interest in the performance of the loan.

Helen O’Beirne, Director of HOME’s Center for Housing Leadership, said “For most Virginians, when they shop for a mortgage to buy a home, they’re squarely on the road to the American Dream. But, sadly, for many it devolves into a nightmare.”

The Trust in Lending Act would realign the interests of mortgage brokers with the interests of borrowers and increase broker accountability with a private cause of action.

Through the bill, the Virginia Mortgage Lender and Broker Act would be amended to add specific enforceable duties by codifying a mortgage broker's duty to act in the borrower's best interest. This commonsense legislation simply requires that a mortgage broker use their best judgment and fully consider a client's needs in the scope of a mortgage transaction – which is why they're hired in the first place.

Ultimately, the bill would restore trust in lending by adding a layer of necessary accountability to the mortgage lending process. It will not affect the day to day business of the vast majority of mortgage brokers, who already act in their clients' best interest. Instead, it will hold liable unethical mortgage brokers who still steer, mislead, or otherwise defraud Virginia borrowers.

For more information on HOME, please visit www.phonehome.org.

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