

March 11, 2024

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing & Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing & Urban
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairmen Brown and McHenry and Ranking Members Scott and Waters:

The undersigned groups, representing a diverse set of housing and financial services stakeholders and advocates, are writing to express our strong support for the bicameral, bipartisan *Homebuyers Privacy Protection Act of 2024*, as introduced by Senators Jack Reed (D-RI) and Bill Hagerty (R-TN) and Representatives John Rose (R-TN) and Ritchie Torres (D-NY). This important consumer protection legislation, S. 3502, and H.R. 7297 (respectively), if enacted, would curb the abusive use of mortgage credit “triggers leads” in all but a limited set of circumstances. We urge you to support this carefully crafted proposal and to schedule the two bills for markup before your respective committees as soon as possible.

Trigger leads occur when a consumer applies for a mortgage (both purchase and refinance loans) and the requisite inquiry to a credit reporting agency (“CRA”) by a lender notifies the CRA that the consumer is interested in home financing. This trigger lead is then sold to data brokers (including other lenders) without the consumer's knowledge or approval. Consumers may then be contacted (by phone, text, or mail) by the other parties that have purchased the trigger leads.

Under the Fair Credit Reporting Act (FCRA), CRAs are permitted by law to resell consumer information to prospective creditors without the consumer's permission if the prospective creditor is prepared to make that consumer a "firm offer of credit." The offer of credit must include a notification to the consumer informing them of the right to “opt out” of receiving future prescreened offers of credit or other solicitations, but these opt-out disclosures are not required in cases of phone solicitations and offers.

Entities that have no relationship with the consumer are buying trigger leads as soon as a customer applies for a mortgage – and then bombarding the applicant with hundreds of confusing calls that seek to lure them away from their chosen lenders. Naturally, consumers often call to complain to the mortgage lender they have chosen, accusing that company of selling their data.

Under current law, the burden is on the consumer to opt-out – for five years beginning five business days after the date the consumer notifies the CRA of that election – and thus negate the ability for the CRAs to sell individual information as a trigger lead.

S. 3502 and H.R. 7297, if enacted, would allow for trigger leads to be permissible under FCRA **only in limited circumstances** during a real estate transaction. For example, a CRA would not be able to furnish a trigger lead to a third party unless the third party has certified to the CRA that it has “originated the current residential mortgage loan of the consumer,” “is the servicer of the current residential mortgage loan of the consumer,” “or is an insured depository institution or insured credit union and holds a current account for the consumer” (or the consumer explicitly consents to such solicitations from other lenders).

In short, the *Homebuyers Privacy Protection Act* would stop the abusive use of trigger leads – while narrowly preserving them for legitimate uses such as existing customer relationships. Again, we urge you to support this bipartisan solution for consumers and promptly consider it for markup within your respective committees. We look forward to our work together on this important issue.

Sincerely,

American Bankers Association
America’s Credit Unions
AmeriHome Mortgage
Broker Action Coalition
Center for Responsible Lending
Community Home Lenders of America
CONSUMER ACTION
Consumer Federation of America
Equity Prime Mortgage
Freedom Mortgage
Guild Mortgage
Housing Policy Council
Independent Community Bankers of America
Leading Builders of America
Mortgage Bankers Association
National Association of Home Builders
National Association of Mortgage Brokers
NATIONAL ASSOCIATION OF REALTORS®
National Consumer Law Center (on behalf of its low-income clients)
National Housing Conference
Rocket Mortgage
Union Home Mortgage
USPIRG

cc: All Members, Senate Committee on Banking, Housing, and Urban Affairs
All Members, House Committee on Financial Services