National
Urban League

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TESTIMONY OF
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BEFORE FOR THE
HOUSE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
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Mr. Chairman, Ranking Member Hensarling, thank you for this opportunity to testify today on the critical issue of mortgage lending reform. I am Stephanie Jones, Executive Director of the National Urban League Policy Institute, the policy and research arm of the National Urban League (NUL), located here in Washington, DC.

Through its frontline housing counseling services in Urban League affiliate programs throughout the country, the National Urban League was on the frontlines of the brewing mortgage housing crisis early on. Our findings led to National Urban League President Marc Morial's release of our "Homebuyer's Bill of Rights," on March 6, 2007 at the National Press Club's Media Luncheon. This was well before the issue started to trigger shockwaves in international credit markets and sending hedge fund analysts to the unemployment line. At that time, policy makers and government officials were reluctant to support greater regulation to give the market a chance to correct itself. Obviously, it never happened.

Through six major policy recommendations, the NUL proposal is designed to minimize four major obstacles standing in the way of more Americans owning their own homes: 1) lack of net savings for downpayments and closing costs; 2) lack of information on how to shop for homes and apply for loans; 3) lack of quality affordable units in livable locations; and 4) lack of consumer protection. I have attached a copy of the NUL Homebuyer's Bill of Rights to my testimony for inclusion in the hearing record.

I will focus my testimony today on three key rights aimed at the lending process and its impact on low and moderate income homeowners and mortgage applicants. They are: 1. The Right to be Free from Predatory Lending; 2. The Right to Fairness in Lending; and 3. The Right to Fair Treatment in Case of Default.

The Right to be Free from Predatory Lending

During recent years, responsible mortgage lenders and consumer advocates have recognized the urgent need to curb abusive lending practices that harm homebuyers and homeowners. To achieve this goal, the National Urban League calls for the elimination of incentives for lenders to make predatory loans; a fair, competitive market that responsibly provides credit to consumers; access to justice for families caught in abusive loans; and the preservation of essential federal and state consumer safeguards.

The National Urban League supports legislation that supplements existing law by promoting these basic objectives. For example, the National Urban League supports the passage of legislation that works to better protect the consumer such as the “Mortgage Reform and Anti-Predatory Lending Act of 2007” (H.R.3915) passed by the U.S. House of Representatives. To improve upon this bill the National Urban League would recommend adoption of additional provisions such as: protecting those states that have stronger anti-predatory lending laws; holding Wall Street accountable for buying abusive loans; and, among other improvements, providing effective remedies for homeowners when brokers and lenders break the law.

The Right to Fairness in Lending

Lenders must gauge the ability to repay and offer borrowers the most affordable and well-suited products for which they qualify. Lenders should demonstrate commitment to the building of personal assets. All participants in the making, collecting, holding and buying of debt have a duty to deal fairly with the borrower.

Policymakers should pay particular attention to communities that have traditionally been underserved or at a disadvantage when obtaining credit, including communities of color and the elderly, to ensure they have full access to the most appropriate loan products that can help them build and maintain wealth. Those who are shown to have taken advantage of vulnerable populations by offering inappropriate products or charging unjustified rates fees should be held fully accountable for their actions.

The National Urban League believes there must be strict limits to **prepayment penalties**. Prepayment penalties must not apply after the expiration of teaser rates in ARM prime and subprime loans. We believe that at least a 90 day time period is needed so that borrowers have sufficient time to shop for and receive another loan if necessary. For fixed-rate subprime loans, prepayment penalties must not extend beyond two years. Responsible lenders have voluntarily applied limits to prepayment penalties similar to NUL’s recommendations. Limiting prepayment penalties prevents borrowers from being trapped in abusive and predatory loans.

Steering borrowers qualified for prime loans into subprime loans is an unfair and deceptive practice. Numerous studies have documented that middle- and upper-income minorities are significantly more likely than middle- and upper-income whites to receive subprime loans. Consequently, borrowers lose substantial amounts of wealth when they are steered into high-cost loans. NUL further urges the prohibition of incentive compensation, such as yield spread premiums, that is based on the terms of a loan.

Escrows must be required for all loans, prime and subprime, fixed and adjustable rate. Currently, since escrows are not required, deceitful lending flourishes when unscrupulous brokers and lenders blind borrowers to the true cost of their loans by not discussing payments for insurance and taxes.

We agree with the Comptroller of the Currency that stated income or low doc loans are prone to abuse when predatory lenders and brokers inflate borrowers' incomes to qualify them for unsustainable loans. Stated income or low doc loans must be prohibited on subprime and/or ARM loans. Clear protections and procedures must be established for reduced documentation loans including the requirement that pay stubs, tax forms, and other acceptable verification of income must be received by the lender.

Lenders must be held liable for deceptive and fraudulent practices committed by brokers with whom they do business. Since up to 70% of the loans originated start with brokers, lenders must be motivated to strictly monitor broker behavior. Likewise, lenders and brokers must face serious financial penalties if they intimidate or pressure appraisers to meet certain home values, as fraudulent appraisals have contributed significantly to the rise of delinquencies and defaults. NUL further believes that individual mortgage brokers and loan officers must be licensed and registered, and required to act "in the best interest" of the consumer under guidelines comparable to those that financial advisors are subject to.

The Right to Fair Treatment in Case of Default

Across the country, people have lost jobs, become temporarily disabled, incurred unexpected medical expenses or have had to make a choice between paying the mortgage or repairing the car that gets them to the job that pays that mortgage.

Laws regarding mortgage default and foreclosure differ from state to state and mortgage lenders and servicing companies vary in the way they approach delinquent borrowers. The National Urban League is generally pleased that many lenders, as well as the big mortgage gatekeepers such as Freddie Mac, FHA and the VA, have amended their approach to managing delinquencies, having finally realized that it is more cost effective to help a borrower to stay in his/her home than to pursue foreclosure and then confront the need to deal with owning, managing, and selling the resulting real estate. Consequently, there are myriad scenarios that can play out as a mortgage delinquency progresses; however, in the case of default the National Urban League believes that three key provisions must be afforded to homebuyers:

- The opportunity for restructuring of a loan if the loan is determined to be onerous including the possibility of conversion to a fixed rate loan.

- Fair and unbiased counseling.

- Access to the holder of the loan for development of reasonable workout plans where the objective is preservation to the greatest extent possible and foreclosure is a least resort after all other measures are exhausted.

The Role of Homeownership and Financial Education Counseling

Now more than ever, a strong housing counseling industry is needed to sustain the gains made in homeownership among low-income and minority consumers. The National Urban League and other national intermediaries have long track records of accomplishment by actively facilitating counseling to promote responsible homeownership and avoid foreclosures. Homeownership education and counseling must be an irreplaceable requirement for affordable loan products aimed at low-income and minority consumers. An effective counseling and education program can offer many benefits to consumers and the lending industry.

Pre-purchase education and counseling has been credited with expanding homeownership in underserved communities, in part, by producing informed borrowers knowledgeable about the lending process and better prepared to accept the responsibilities of homeownership. Research shows that pre-purchase education and counseling has also been found to lower the risk of default.

Post-purchase education and counseling can stabilize homeownership in underserved communities. Post-purchase education and counseling refers to a range of services—from instruction on home maintenance, budgeting and foreclosure prevention, to crisis intervention for delinquent borrowers, or counseling to prevent or assist victims of predatory lending. The intensive, one-on-one default and delinquency counseling most often provided by nonprofit agencies such as the Urban League, reduces the incidence of foreclosure among low-income households. Urban League counselors work closely with borrowers to help them understand their options and act as intermediaries in negotiating between borrowers and servicers to put the best workout in place.

Although good counseling may potentially reduce the incidence of predatory lending in low-income and minority communities, counseling in and of itself will not stop predatory lending. Clear prohibitions to stop the most egregious practices, coupled with assignee liability is what is needed to tackle this problem. Only by changing the laws governing mortgage lending—to stop lenders from financing high points and fees, charging exorbitant prepayment penalties, refinancing special loan programs for first-time buyers into high-cost credit—can we fully address the problem of unscrupulous predatory mortgage lending.

Thank for you the opportunity to testify.