June 17, 2020

Mayor Muriel Bowser
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

Dear Mayor Bowser,

On behalf of the Mortgage Bankers Association of Metropolitan Washington, the Maryland Mortgage Bankers and Brokers Association, Virginia Mortgage Bankers Association and the Mortgage Bankers Association (MBA),[1] we would like to urge you to review and consider alternatives to language in Section 304 ("Emergency credit alerts") of the Coronavirus Support Emergency Amendment Act of 2020 (B23-0757), the Coronavirus Support Temporary Amendment Act of 2020 (B23-0758) and the Coronavirus Support Congressional Review Emergency Amendment Act of 2020 (B23-0759), which were recently enacted.

In particular, we are concerned with a provision that prohibits users of credit reports from using or taking into consideration any adverse information in a report that occurred during any public health emergency if the report includes a personal statement. The language also subjects users to private rights of action and Attorney General enforcement for violations of this new provision. In essence, this exposes all users – from mortgage and auto loan lenders to potential employers, insurers, even government agencies - to significant litigation and liability risk for any negative decision as it would be virtually impossible for them to prove that they did not consider certain information on a credit report. We believe the new law will likely have unintended and wide-ranging consequences that would serve only to impede rather than facilitate the financial recovery of DC residents impacted by the COVID-19 pandemic. Most concerning, with respect to real estate finance, is the potential for unintended consequences related to assisting DC residents take advantage of low interest rates and access the affordable housing programs of the federal housing programs. Many middle-class families obtain mortgage credit through programs offered by Fannie Mae, Freddie Mac, the Federal Housing Administration and the Veterans Administration. Lenders working to qualify consumers in the DC for these loans to purchase or refinance a home must use the algorithmic underwriting models employed by these federal government agencies. The new law could expose lenders to litigation risk for credit decisions made by these models.

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, credit unions, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

The District of Columbia already has powerful tools to ensure consumer protection. Attorney General Racine recently filed a lawsuit against an online lender for deceptively marketing high-cost loans carrying interest rates far above the District's cap on interest rates. This a great example of the District of Columbia protecting consumers who may have been wronged by a user of a credit report during this pandemic and going forward. It is also a great example of the powers the District of Columbia already possesses to help consumers who have been wronged by a user of consumer report and why we believe the problems consumers face can be addressed without legislation like this.

Additionally, federal investors and regulatory agencies are committed to assisting consumers impacted by COVID-19 hardships recover financially. For example, on March 9, 2020, all five federal banking agencies and the Conference of State Bank Supervisors issued a joint statement to "encourage financial institutions to meet the financial needs of customers and members affected by the coronavirus." In response to this, we have seen lenders and other users of consumer reports from across the business community perform extensive assistance and outreach to consumers impacted by COVID-19.

In conclusion, we believe there are already existing methods in the credit reporting system and for users of credit reports to address the concerns behind this new provision while providing relief to individuals whose credit reports and scores are affected by economic distress related to the COVID-19 pandemic. In addition, we believe that the Federal CARES act, industry guidance and public information from the Consumer Financial Protection Bureau (CFPB) and efforts taken by lenders around the country have addressed these concerns as well. For these reasons we ask you to consider alternatives to the new provision restricting users of credit reports.

We thank you for your consideration. Our organizations would welcome an opportunity to discuss these issues and answer questions with your staff. If you have any questions, or if MBA can be of assistance to you in any way, please do not hesitate to contact MBA's Kobie Pruitt at 202-557-2780 or kpruitt@mba.org.

Sincerely,

Mortgage Bankers Association
Mortgage Bankers Association of Metropolitan Washington
Maryland Mortgage Bankers and Brokers Association
Virginia Mortgage Bankers Association