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January 26, 2024

To: The Honorable C.T. Wilson
Chair, Economic Matters Committee

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: House Bill 223 – Commercial Law - Mortgage Loans - Verification of Ability to Repay
(OPPOSE)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) opposes House Bill 223 sponsored by Delegate Pam Queen. Presently, under Commercial Law § 12-1029, mortgage lenders issuing loans with government guarantees and/or refinancing certain mortgage loans are excused from conducting a review of a borrower’s ability to repay. House Bill 223 seeks to further expand this borrower’s ability to repay verification exemption to Community Development Financial Institutions. Specifically, House Bill 223 exempts Community Development Financial Institutions from conducting a review of a borrower’s ability to repay the mortgage loan, including a review of the borrower’s debt-to-income ratio and a borrower’s verified monthly income and assets through third-party documentation.

Allowing Community Development Financial Institutions to issue mortgage loans without verifying a borrower’s ability to repay creates the unnecessary risk of consumers being marketed and provided loans they ultimately cannot afford. As seen during the mortgage foreclosure crisis of the late 2000s, mortgage loans provided to consumers with little to no income inquiry and verification ultimately resulted in a high rate of loan defaults and foreclosures, and substantial harm to the housing and banking markets.¹ Loosening the carefully created guardrails of verifying a borrower’s ability to repay, as House Bill 223 seeks to do, could

¹ See The Financial Crisis Inquiry Commission Report, January 2011, http://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf

subject underserved borrowers to the deceptive, unfair, and abusive practices of being targeted with and provided mortgage loans they cannot afford.

For these reasons, the Division requests that the Economic Matters Committee give House Bill 223 an unfavorable report.

cc: The Honorable Pam Queen
Members, Economic Matters Committee