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**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

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March 21, 2023

To: The Honorable Melony Griffith  
Chair, Finance Committee

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

Re: House Bill 400 – Commercial Law - Ability to Repay Verification – Exemption  
(OPPOSE)

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The Consumer Protection Division of the Office of the Attorney General (the “Division”) opposes House Bill 400 sponsored by Delegate Nicholas R. Kipke. Presently, under Commercial Law § 12-1029, mortgage lenders issuing loans with government guarantee and/or refinancing certain mortgage loans are excused from conducting a review of a borrower’s ability to repay. House Bill 400 seeks to further expand this borrower’s ability to repay verification exemption to Community Development Financial Institutions. Specifically, House Bill 400 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 a dozen years ago, 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.<sup>1</sup> Loosening the carefully created guardrails of verifying a borrower’s ability to repay, as House Bill 400 seeks to do, could subject underserved borrowers to the deceptive, unfair, and abusive practices of being targeted with and provided mortgage loans they cannot afford.

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<sup>1</sup> See The Financial Crisis Inquiry Commission Report, January 2011, [http://fcic-static.law.stanford.edu/cdn\\_media/fcic-reports/fcic\\_final\\_report\\_full.pdf](http://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf)

For these reasons, the Division requests that the Finance Committee give House Bill 400 an unfavorable report.

cc: Members, Finance Committee