Testimony offered on behalf of:
MARYLAND MORTGAGE BANKERS & BROKERS ASSOCIATION, INC.

IN SUPPORT, WITH AMENDMENT TO:
HB1331 – Consumer Protection – Artificial Intelligence

House Economic Matters Committee
Hearing: 3/4/2025 at 1:00 PM

The Maryland Mortgage Bankers and Brokers Association (MMBBA) acknowledges the intent of **HB1331**, which aims to protect consumers from potential harm associated with high-risk artificial intelligence (AI) systems. However, **we advocate for exemptions to address the harm the bill would have on the residential mortgage banking industry in Maryland.**

The mortgage banking industry should be exempt from HB1331 because the use of AI is already regulated under an existing comprehensive federal regulatory framework. Conversely, the Mortgage Bankers Association (MBA) has expressed concerns that a patchwork of state laws and federal regulations could lead to higher compliance costs and disrupt access to credit for consumers. The MBA advocates for uniform federal legislation to address AI-related issues, suggesting that state-level regulations may be redundant and potentially conflicting.[1]

Federal agencies have already established guidelines and rules to ensure the responsible deployment of AI in mortgage lending. Financial institutions are subject to routine on-site examination by prudential regulators and examiners who ensure compliance with laws and regulations, including consumer protection and anti-discrimination laws. Regulators have consistently emphasized that financial institutions must identify, measure, monitor, and manage risks arising from the use of AI. "Regardless of how AI is used in the activities of a financial institution, the institution is responsible for adherence to applicable laws and regulations."[2]

Regulatory and supervisory oversight includes the review and assessment of institutions' practices for identifying, monitoring, and controlling the risk of discrimination or bias in AI systems.

[1] Mortgage Bankers Association, AI in the Mortgage Industry (Nov. 2024), available here.
[2] U.S. Department of Treasury, Managing Artificial Intelligence-Specific Cybersecurity Risks in the Financial Services Sector (March 2024), available here.

- Equal Credit Opportunity Act (ECOA): ECOA, and its implementing regulation, Regulation B, promulgated by the Consumer Financial Protection Bureau (CFPB) prohibits lenders from using AI to discriminate against applicants during a credit transaction based on race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, age, whether all or part of the applicant's income derives from any public assistance program, or the applicant's good faith exercise of any right under the Consumer Credit Protection Act. Lenders have necessarily used algorithms and AI for many years to promptly complete a consumer's request for the extension of credit. In instances where that credit is denied, a lender must provide notice that is specific and indicate the principal reasons for the adverse action. Under CFPB Circular 2022-03, creditors cannot merely rely on the output of an AI as a reason to deny credit and must disclose a specific reason for the denial. ECOA is enforced by the CFPB and can be enforced by the Maryland Attorney General.

- Fair Housing Act (FHA): The FHA prohibits discrimination in all aspects of residential real estate-related transactions based on race, color, religion, sex (including sexual orientation and gender identity), national origin, disability, and familial status. The FHA is enforced by the Department of Justice.

- Fair Credit Reporting Act (FCRA): FCRA requires creditors to provide an adverse action notice, like ECOA, if their decision is based on information contained in a consumer credit report. Additionally, FCRA allows consumers to dispute the completeness or accuracy of information in their credit report and requires that a credit reporting agency investigate this claim.

The systems and models developed and authorized by the Government-Sponsored Enterprises (GSEs) and federal agencies are developed and utilized within this regulatory framework, ensuring consumer protection and fairness. Given existing federal oversight, exempting the mortgage banking industry from HB1331 would allow the industry to continue its operations under the established federal framework. At a minimum, we recommend that AI systems developed or authorized by GSEs or federal agencies, such as Automated Underwriting Systems (AUS) and Credit Scoring Models, be exempt from the provisions of **HB1331**. These systems are integral to the mortgage lending process, providing efficiency and consistency in credit risk assessment. They operate under stringent federal regulations and oversight, ensuring their reliability and fairness. Credit Scoring Models are essential tools in evaluating borrowers' creditworthiness and are developed following federal guidelines to prevent discrimination and ensure accuracy.

While we understand the concerns of **HB1331** in safeguarding consumers from potential risks associated with high-risk AI systems, we believe that the residential mortgage banking industry operates under established federal regulations that already address the concerns contemplated by this bill. Therefore, we respectfully request that **HB1331** include explicit exemptions for the mortgage banking industry or, at a minimum, an exemption for AI models that have been developed or authorized by the GSEs or federal government, including credit scoring models, to avoid raising the cost of providing credit to Maryland residents. By incorporating these exemptions, **HB1331** can achieve its consumer protection goals without imposing unnecessary constraints.

For these reasons, the MMBBA requests a **FAVORABLE REPORT, WITH AN AMENDMENT on HB1331.**

Respectfully submitted,

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