Center for Responsible Lending
Consumer Federation of America
Consumers Union
National Association of Consumer Advocates
National Community Reinvestment Coalition
National Consumer Law Center
U.S. PIRG

May 3, 2006

Dear Senate Banking, Housing, & Urban Affairs Committee Member:

As the Senate Banking Committee prepares to mark-up financial services regulatory relief legislation, the undersigned consumer and community groups write to urge your opposition to a number of proposals that may be included in or offered as amendments to this legislation. These proposals pose a significant threat to low and moderate-income consumers. They would override important state laws with weak (or no) substitutes and undermine key consumer protections under federal law.

We also urge you to include regulatory proposals that would update important consumer protection laws. **A fair bill cannot be limited to proposals requested by financial institutions. A fair bill must include regulatory measures that would benefit consumers.** In particular, our organizations urge you to take the long-overdue step of updating the jurisdictional limits and statutory damages allowed under the Truth in Lending Act (TILA) and the Consumer Leasing Act.

We strongly oppose exempting check diversion companies from the Fair Debt Collection Practices Act. This provision will allow private companies to threaten criminal prosecution or jail to force consumers to pay for checks that they may not even know bounced, as well as exorbitant fees that are not authorized under state law. This provision also places few limits on the activities of check diversion companies, which have a track record of abusing consumer rights throughout the country. Consumers will continue to be subject to threats of criminal prosecution for not paying for the checks without being granted basic rights, such as the right to request copies of the checks or protections against unfair, abusive or deceptive collection practices. Consumer organizations and the Federal Trade Commission have consistently opposed this unjustifiable exemption in the past. Because of heroic efforts to reduce the dangers to consumers in the House version of this proposal (in H.R.3505), the bill being considered in the Senate Banking Committee is slightly less harmful to consumers. Unlike the House bill, the Senate proposal would require a probable cause determination before an initial collection letter can be sent by private companies to consumers.

We oppose any provision that would undermine meaningful state consumer protections against abuses in the rent-to-own industry. Congress must not be deceived by legislative language that purports to advance consumer protections in rent-to-own (RTO) transactions, but in actuality preempts state laws (such as Wisconsin, Michigan, Minnesota, Vermont, North Carolina, and New Jersey) that provide the strongest protections for the consumers of these transactions. For example, the intention of this provision – which is found in S. 603 -- is to explicitly preempt any state law that treats rent-to-own transactions as loans or credit sales and that seeks to rein in unjustified rent-to-own costs. It does not, in any way, advance consumer protection.

RTO businesses are essentially appliance and furniture retailers that arrange lease agreements rather than typical installment sales contracts for those customers who cannot purchase goods with cash or who are unsophisticated about money management. The industry aims its marketing efforts at low-income consumers, the vast majority of its consumer base. Statistics from the FTC show that most of their customers enter into these transactions with the expectation of buying an appliance and are seldom interested in the rental aspect of the contract. This attitude is encouraged by RTO dealers who emphasize the purchase option in their marketing even while they are minimizing its importance in the written contract. State laws protecting these vulnerable populations of consumers must not be preempted.

We oppose any changes to or weakening of the Home Mortgage Disclosure Act. The Home Mortgage Disclosure Act (HMDA) is one of a class of laws enacted by Congress to ensure that depository and non-depository mortgage lending institutions serve their communities by providing credit in a fair and non-discriminatory manner. Some in the banking industry have advocated using regulatory relief legislation as a vehicle for amending HMDA to reduce the number of banking institutions that presently report under this law. Legislative proposals that reduce the numbers of HMDA reporters and eliminating key elements that are reported undermine the utility and effectiveness of this vital information source.

We strongly oppose a bill that would preempt the voter-mandated constitutional interest rate ceilings in the state of Arkansas, which is bad for consumers and unfair to Arkansas voters. This proposal (which is included in H.R. 3505) or any amendment similar to it would prohibit the people of Arkansas from establishing any limits on interest rates in their states. This proposal inappropriately prevents state government from establishing reasonable limits on unfair credit practices. That is why this proposal is opposed by a broad coalition of national civil rights, labor and consumer rights organizations.

As the Committee marks-up this legislation, our organizations urge you to oppose any provisions that weaken consumer protections or put vulnerable consumers in harm's way.

Sincerely,

Travis Plunkett
Legislative Director
Consumer Federation of America

Kimberley D. Warden
Vice President, Federal Affairs
Center for Responsible Lending

Susanna Montezemolo
Policy Analyst
Consumers Union

Ira Rheingold
Executive Director
National Association of Consumer Advocates

Margot Saunders
Of Counsel
National Consumer Law Center

Ed Mierzwinski
Consumer Program Director
U.S. Public Interest Research Group
(U.S. PIRG)

Monica Gonzales
Vice President for Legislation and Regulatory Affairs
National Community Reinvestment Coalition