NRMLA®
National Reverse Mortgage Lenders Association

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Via email and U.S. Mail

Senator Delores Kelley
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Senator Thomas Middleton, Chair, Senate Finance Committee
Miller Senate Office Building, 3 East Wing
11 Bladen St., Annapolis, MD 21401 - 1991

RE: Statement of Opposition to Senate Bill 855

Dear Madam and Sir:

Herein, the National Reverse Mortgage Lenders Association (NRMLA) respectfully submits its comments to Maryland Senate Bill 855 (S.B. 855).

NRMLA is the national voice of the reverse mortgage industry, serving as an educational resource, policy advocate and public affairs center for lenders and related professionals. NRMLA was established in 1997 to enhance the professionalism of the reverse mortgage business. Our mission is to educate consumers about the pros and cons of reverse mortgages, to train lenders to be sensitive to clients' needs, to enforce our Code of Ethics and Professional Responsibility, and to advise policy makers on reverse mortgage issues.

NRMLA supports responsible reverse mortgage lending, and protecting seniors, while providing seniors with access to credit and choices with respect to financial services. For those seniors who choose to learn about and enter into a reverse mortgage transaction, it can be an important financial tool, provide needed funding or additional retirement options, and allow a senior to age in place in their own home. In short, a reverse mortgage can provide financial flexibility and help finance the longevity of a senior's aging in place. A reverse mortgage is an especially important option today given recent downward trends in other retirement assets and uncertainties surrounding other means of support during retirement.

In relation to Maryland Senate Bill 855 (S.B. 855), we are pleased to provide you with this background information on reverse mortgages. While we agree with the apparent intention of S.B. 855 to further protect and serve seniors receiving reverse mortgages in Maryland, for the reasons outlined below, we believe not only is S.B. 855 unnecessary, but if enacted, it will have a very disruptive effect on the offering of reverse mortgages to Maryland seniors that would otherwise choose to explore and obtain reverse mortgages.

As a precursor, it is our understanding that over 99% of the reverse mortgages offered in the United States (and Maryland) today are those made under the Federal Housing Administration's (FHA) Home Equity Conversion Mortgage (HECM) program (authorized under 12 U.S.C. § 1715z-20).

Escrow accounts are neither germane nor used with reverse mortgages. Set aside accounts, however, are used with reverse mortgages. Escrow accounts are common and used with so called "forward mortgages." Forward mortgages are standard residential mortgages loans that consumers use to buy homes, or obtain a refinance residential mortgage transaction, but that require monthly installment repayments of principal and interest. Escrow accounts on forward mortgages must be funded by the borrower with separate funds at the closing (or consummation) of a loan. Further, during the life of a forward mortgage loan, escrow amounts are included as part of the monthly payment of principal and interest that the borrower makes to the lender.

Escrow accounts however are not now, nor have ever been used in connection with or as a feature of a reverse mortgage. The reason for this is that escrow accounts must be funded with borrower funds and borrower monthly payments. With a reverse mortgage, there are no required monthly mortgage payments, thus no escrow accounts.

"Set asides" on the other hand, while analogous to escrow accounts that are used on forward mortgages, are a distinct and unique feature of reverse mortgages. This feature has: (i) been part of the FHA HECM program since its inception in the late 1980s, and (ii) was substantially strengthened, augmented and updated by the FHA for the HECM program effective for HECM loans made on or after April 27, 2015. See Mortgagee Letters 2013-28, 2014-22, 2015-06 and 2015-09.

Set asides, as the name suggest, are a segregation or "setting aside" loan proceeds available to a borrower under a reverse mortgage to pay for, among other things, "property charges." Property charges are defined as taxes, ground rents, flood and hazard insurance premiums, and special assessments. See 24 CFR § 206.205(a). In this regard, there are no payments required of the borrower for these property charges items. When required and utilized, as explained below, set asides, or a segregation of borrower funds under the reverse mortgage, are used to pay these property charges.

Under the FHA HECM program, if the mortgagor gives the mortgagee responsibility for making payments for taxes and insurance, the mortgagee is prohibited from maintaining an escrow account. FHA Single Family 4330.1 REV-5: Administration of Insured Home Mortgages,

¶ 13-12. Further, under the FHA HECM program as amended effective April 27, 2015, lenders making HECMs must perform a further "Financial Assessment" of a borrower's capacity and willingness to maintain themselves under a HECM loan, including their ability to pay property charges on their home. This Financial Assessment is in the nature of underwriting similar to and based upon certain principles for underwriting of so called "forward mortgages". If such Financial Assessment shows that an applicant for a HECM does not have the capacity or the willingness to handle his or her property charges, then the FHA program requires the lender only to offer the loan with a property charge set aside account. If this is the case, funds otherwise available to the borrower under the loan will be "set aside" for the payment of property charges by the lender on behalf of the borrower and will not otherwise be available to be paid to the borrower for other purposes. However, FHA guidelines provide that such set aside funds are <u>not</u> to be held in an escrow account. See FHA Mortgagee Letter 2014-21.

FHA HECM Financial Assessment is robust. Please find those underwriting guidelines attached. If an escrow account is required on all reverse mortgages in Maryland, lenders will not be able to legally offer such loans under the FHA HECM program, and reverse mortgage lending in Maryland will cease.

Under the most prevalent reverse mortgage program on the market today, the FHA HECM program, Financial Assessment is required and robust, and such Financial Assessment is designed to determine, among other things, that a borrower can pay his or her property charges on their home. Further, as outlined above, under the FHA HECM program, borrowers have always had, and continue to have the option to voluntarily elect a property charge set aside feature with the HECM loan under which the lender manages and pays their property charges with borrower funds set aside (but not escrowed) for such purposes. However, unless a borrower does not meet Financial Assessment requirements, under the FHA HECM program a lender cannot dictate to a borrower how the borrower is to use his or her home equity loan proceeds by requiring a borrower to elect a property charge set aside account.

Further, with limited exceptions, Maryland law currently requires any non-FHA-insured reverse mortgage to comply with the FHA HECM program. See Md. Comm. Law Code § 12-1204. Therefore, the requirements of meeting Financial Assessment under the FHA program, as outlined above, apply to any non-FHA insured loan made in Maryland. By extension, the requirement to establish a property charge set aside account also would apply to any borrower under a non-FHA-insured reverse mortgage that does not satisfy these Financial Assessment requirements.

For the reasons outlined above, we respectfully request an unfavorable report on S.B. 855 by the Senate Finance Committee.

Respectfully submitted,

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