



State of North Carolina
Department of Justice

Roy Cooper, Attorney General

October 9, 2009

The Hon. Kay Hagan
United States Senate
521 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Senator Hagan:

As the person charged with enforcing North Carolina consumer laws, I urge you to support the proposed federal agency to protect North Carolina residents and all Americans from unfair financial services.

I understand that the House Committee on Financial Services will soon be considering legislation (HR 3126) to establish the Consumer Financial Protection Agency. The current financial crisis, caused in part by irresponsible subprime lending, has demonstrated the need for comprehensive and effective regulation and enforcement at the federal level. I believe an independent agency along with strong enforcement at the state level is essential to protect consumers and give the industry clear guidelines.

I urge you to support this legislation and to oppose any efforts to preempt the applicability of state laws to financial institutions.

A key reason that I and other state attorneys general have supported the creation of a single enforcement agency in HR 3126 is that the legislation preserves North Carolina's strong consumer protection laws and our ability to enforce them. It is vital to preserve a strong role for the States in protecting consumers from abuses.

As you know, North Carolina was the first state to enact a comprehensive ban on predatory mortgage lending. That law, which I sponsored 10 years ago as a legislator, has worked here at home without restricting the availability of legitimate credit to North Carolinians. A study released this week by the UNC Center for Community Capital showed that states with strong anti-predatory lending laws like North Carolina's had lower foreclosure rates than states without such laws.

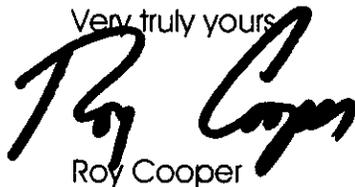
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When I sponsored the 1999 law, I worked closely with representatives of the banking and mortgage lending industry. They acknowledged then and now that the protections were narrowly focused on unfair lending and did not interfere with their ability to make home loans. Despite this, federal banking regulators in 2004 preempted the protections in our law as they applied to national banks. That gave national banks a competitive advantage due to their ability to ignore state law, and as a result, as demonstrated by the new UNC study, the national banks dramatically increased their share of the subprime lending market in states with predatory lending laws.

State consumer protection laws should apply to all categories of lenders, regardless of whether they are state or nationally chartered. Equally as important, state Attorneys General should maintain consumer protection enforcement rights over all lending institutions doing business in their states. State enforcement of these laws does not interfere with the supervisory functions of federal regulators as the Supreme Court recently recognized in Cuomo v. Clearing House Association.

Creation of a federal CFPA will be a major step toward a safer and sounder financial marketplace. Of equal importance is the right of states to protect its consumers. I ask that you to actively oppose any efforts to weaken HR 3126 through preemption amendments that would displace the historic role of the states in this area.

With kind regards, I am

Very truly yours

Roy Cooper

RAC/sm