National Association of Consumer Credit Administrators

December 7, 2012

The Honorable Harry Reid
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable John Boehner
United States House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Nancy Pelosi
United States House of Representatives
235 Cannon House Office Building
Washington, DC 20515

RE: Opposition of State Financial Regulators to H.R. 6139, the "Consumer Credit Access, Innovation and Modernization Act"

Dear Sirs and Madam,

I am writing on behalf of the National Association of Consumer Credit Administrators (NACCA) to express strong opposition to H.R. 6139, which would make a federal charter available to high-interest, short-term consumer lenders, including payday lenders, and which would preempt state consumer protection laws that currently regulate such lenders. Although it does not appear that action will be taken on this legislation in the current session, our association's members feel it is critical to express our concerns on the record, since the issue may resurface in next year's session.

NACCA is an association of state regulatory officials from 49 states as well as the US territories and Canadian provinces who are authorized to enforce laws and rules relating to extensions of consumer credit, including personal loans and payday loans. Following passage of the Dodd-Frank Act, our members established working relationships with officials within the new federal Consumer Financial Protection Bureau (CFPB), and we are prepared to work with the CFPB to regulate payday lenders, installment lenders, car-title lenders, pre-paid card issuers, check-cashers and money-order issuers – all businesses over which the jurisdiction of state regulators and the CFPB would end if H.R. 6139 or a similar future bill becomes law.

Our state regulatory offices administer Truth-in-Lending (T-i-L) and other consumer protection and disclosure laws. H.R. 6139 would exempt loans with terms of less than one year from T-i-L disclosures. It's no wonder that short-term lenders favor such an exemption, since a typical 2-week loan of $100 in which the consumer owes $125 at the end of the term, currently requires disclosure at the accurate annual interest rate of 650% APR.

Our agencies collectively receive and resolve tens of thousands of consumer complaints each year resulting from the lending and collection practices of payday lenders. We do not believe the Office of the Comptroller of the Currency (OCC) is prepared to investigate and provide remedies to consumers on this volume of cases. In fact, in testimony on the bill this summer the OCC expressed its concerns regarding taking on the responsibility of regulating these businesses, and supported continuation of state authority and jurisdiction. In the July 24 hearing before the House Subcommittee on Financial Institutions and Consumer Credit, Deputy Comptroller Grovetta Gardineer stated that "H.R. 6139 could have a number of unintended and undesirable effects for the population that it is intended to benefit" and that "it raises serious consumer protection, compliance, and safety and soundness issues." Deputy Comptroller Gardineer further stated that where these types of consumer credit

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products are offered, “state officials and the CFPB have adequate authority to regulate these products and services and the companies that provide them.”

In short, we can discern no advantages to consumers in considering a federal charter for short-term consumer lenders, and we believe preempting state regulatory authority – as well as the newly-granted federal CFPB authority – over such activities, would result in great harm to consumers who choose to avail themselves of these complex and expensive products. We strongly urge you to oppose H.R. 6139 and allow the states to continue to enforce the consumer protection laws already in place to help protect and safeguard its citizens.

Thank you for your consideration of our association’s sentiment of strenuous opposition to this bill or future, similar proposals. Please feel free to contact me at soshields@sml.texas.gov with any questions.

Sincerely,

Steven O'Shields
NACCA, President