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**STATEMENT OF HILARY O. SHELTON
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BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE

**“H.R. 1728: MORTGAGE REFORM AND ANTI-PREDATORY
LENDING ACT”**

April 23, 2009

Thank you, Chairman Frank, Ranking Member Bachus and all the members of the committee for your work on this issue, for this hearing and for inviting me here today. The NAACP deeply appreciates your interest in our views on predatory lending as it is clearly a crucial civil rights issue for the twenty-first century.

For many Americans, the issue of predatory lending has just come into focus within the last few years as a disparate number of the foreclosures that are currently rocking our nation's economy are due to sub-prime, predatory loans. Sadly, predatory loans of all types are nothing new to African Americans and other racial and ethnic minority Americans: for decades predatory lenders targeted American borrowers of color with their nefarious products.

As early as 1996, a study by Fannie Mae and Freddie Mac reported that as many as a third of the families who receive subprime loans actually qualified for prime loans¹. A 2000 study by the U.S. Department of Housing and Urban Development clearly demonstrated that many people of color could qualify for more affordable loans than they were allowed to receive².

More recently, in 2005 a study released by the Federal Reserve showed that African Americans were 3.2 times more likely to receive a higher cost, subprime loan than our Caucasian counterparts; Latinos were 2.7 times more likely to receive a higher rate loan than white borrowers³. A 2006 study by the Center for

¹ Freddie Mac. September 1996. *Automated Underwriting: Making Mortgages Lending Simpler and Fairer for America's Families*. Washington DC

² U.S. Department of Housing and Urban Development and U.S. Treasury Department. 2000. *Curbing Predatory Home Mortgage Lending*. Washington, DC: U.S. Department of Housing and Urban Development.

³ Robert B. Avery, Kenneth P. Brevoort and Glen B. Canner, “Higher Priced Home Lending and the 2005 HMDA Data,” Federal Reserve Bulletin, amended September 18, 2006.

Responsible Lending demonstrated that for most types of subprime home loans, African American and Latino borrowers are more than 30% more likely to have higher rate loans than Caucasian borrowers, even after accounting for differences in risk⁴. Moreover, another study showed that high-income African American and Latino borrowers in the Boston were six to seven times more likely to have an expensive mortgage than Caucasians in the same income bracket in 2005⁵.

Let me say at this juncture that the NAACP recognizes the legitimate role the subprime market has played and can continue to play for hundreds of thousands of qualified Americans with spotty credit, or in some cases a lack of a traditional credit history, to pursue the American dream of homeownership. Unfortunately, the subprime market has been abused by too many unscrupulous lenders who are willing to ruin people's lives, not to mention whole communities, for their own personal gain.

Predatory lending ruins not only individual lives and families: its disastrous impact can be felt by whole communities. Sadly, these people and their communities are often those that can least afford to lose what little wealth and stability they had hoped to amass through homeownership.

According to the US Census Bureau, just over 68% of Americans owned their own homes in 2007. Among white Americans, the average was slightly higher; 72% owned their own homes. In that same year, however, only 47.2% of African Americans and 49.7% of Hispanic Americans owned their own homes.

Given that homeownership is considered one of the most reliable ways for economically disadvantaged populations to close the wealth gap, one direct result of these unfair and immoral discriminatory predatory lending practices is that it is harder for African Americans and other racial and ethnic minorities to build wealth as they prepare for their futures or pass any material possessions on to their heirs. Predatory lending is a direct attack on our financial security and economic future; an attack that is targeted at individuals and communities because of the color of our skin.

Furthermore, given what we now know is the impact these predatory loans can have on families, communities, and our Nation it should come as no surprise that once again, African Americans feel that they are the "canary in the coal mine"; financial institutions appear to be willing to see how much damage they can inflict

⁴ Center for Responsible Lending. May 31, 2006. "*Unfair Lending: The effect of Race and Ethnicity on the Price of Subprime Mortgages*" Debbie Gruenstein Bocian, Keith Ernst and Wei Li.

⁵ Massachusetts Community and Banking Council. January 2007. "*Borrowing Trouble VII: Higher Cost Mortgage-Lending in Boston, Greater Boston, and Massachusetts in 2005*" Jim Campben

on one sector of the population and then we will know what the rest of the Nation can stand.

And so the NAACP has a strong interest in seeing predatory loans outlawed and predatory lenders put out of business permanently. And while I suspect not everyone in this room would agree with everyone else on just what an “ideal” bill is, I will say there are several elements that the NAACP feels should be included in any effective, comprehensive legislation that will go a long way toward ending the scourge of predatory lending. These elements include:

- A ban on compensation tied to the terms of the mortgage that often serves as an incentive for steering vulnerable borrowers into loans that are more expensive and risky than they qualify.
- The establishment of a Duty of Care that requires originators to present borrowers with loan options which are appropriate to their financial circumstances;
- The establishment of a requirement that lenders and originators make loans that the borrower can afford to repay;
- A prohibition on prepayment penalties in the subprime market;
- An increase in protections available under the Home Owner Equity Protection Act (HOEPA) for high cost loans;
- The federal legislation should clearly be a floor rather than a ceiling; states and municipalities should be able to do more to end predatory lending than what is in the federal bill, especially given the regional nature of some types of predatory loans and the fact that predatory lenders have a history of coming up with new schemes to bilk homeowners and would-be homeowners of their hard-earned capital whenever their existing scheme is outlawed; and
- No legislation should in any way provide immunity for past acts of discrimination or violations of civil rights laws and regulations by lenders, mortgage brokers or financial institutions.

While, as I said earlier in my statement I suspect it would be rather difficult to draft legislation that would please everyone in this room, let alone on this panel, I would also like to highlight the NAACP’s support for H.R. 1782, the “*Fairness for Homeowners Act of 2009*” introduced by Congressman Keith Ellison of Minnesota. While some of the provisions in Congressman Ellison’s bill are similarly addressed in H.R. 1728, H.R. 1782 also has very strong and detailed anti-steering provisions. The NAACP feels strongly that H.R. 1782 is a good start based on proven anti-predatory lending practices that have worked well in Minnesota.

Finally, please allow me to say a few words about the legislation that has been introduced by Congressman Miller of North Carolina and co-sponsored by Chairman Frank, H.R. 1728, the *Mortgage Reform and Anti-Predatory Lending Act*. As far as the NAACP is concerned, while this legislation has some definite strengths there are also some areas where we look forward to working with the

committee to make stronger. However, it should be clearly stated that in no way do we believe that this legislation as it is now will result in more discriminatory lending to racial or ethnic minorities.

I would like to again thank the Chairman and the committee for your sustained, long-standing and tireless efforts to address predatory lending. As far as the NAACP is concerned, you were on the forefront of trying to end predatory lending abuses long before it was a hot topic, and we appreciate all that you have done and all that you continue to do. I look forward to continuing to work with you to ensure that predatory lenders are put out of business and that everyone is free to pursue the American dream of affordable, sustainable homeownership regardless of his or her gender, age, race or ethnic background.