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**Testimony before the Consumer Affairs Committee
New York City Council
Intro 67A, Predatory Lending Legislation
(Prepared for Delivery)**

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Good Morning. I appreciate the opportunity to appear before you today in support of Intro 67A, Predatory Lending legislation.

Put quite simply, it is time, once and for all, to put an end to the abusive practice of predatory lending. It has been around too long, affecting too many people and too many have suffered. I commend the City Council for taking on an issue that, quite frankly, has received much talk but not enough action.

Well, now is the time to act. It is time for the city to legislate changes that go after unscrupulous predatory lending practices, without limiting access to needed credit. This hearing is an essential first step toward that end. We all recognize that this is an on-going legislative process that will provide ample opportunity for many viewpoints and lead ultimately to passage of legislation that will protect consumers without drying up credit or chasing business away from New York City.

We have all heard the anecdotes, read the news stories, and sometimes have known people directly affected by this issue. Predatory loans charge more in interest and fees than is required to cover the added risk of lending to borrowers with credit imperfections. They pack fees and products onto loans that trap borrowers and lead to increased indebtedness. Predatory sub-prime lenders intentionally exploit the weaknesses in existing laws and regulations to their benefit.

In essence, predatory loans exploit vulnerable borrowers, most of whom research indicates, are elderly, the working poor, women and minorities. Some

of the victims have come to my office seeking assistance. One recent case handled by my Citizen Action Center involved an elderly couple who refinanced their house to pay for their son's education.

After making payments for four years, they had not yet touched the principle. Through our intervention, they were able to get the loan renegotiated. Unfortunately, many other victims who can't get help face burdensome costs and the fear of losing the roof over their heads. People who have worked hard all their lives shouldn't have to go through that.

But the sub-prime market has exploded in recent years. According to the Department of Housing and Urban Development (HUD), sub-prime refinance lending increased almost 1000 percent from 1993 to 1998. And Wall Street firms have played a prominent role in that increase.

A New York Times/ABC News investigation documented that from 1995 to 1999 the amount of money raised on Wall Street for sub-prime lenders rose from \$10 billion to nearly \$80 billion annually.

And a surprising fact revealed by some studies, including those conducted by Freddie Mac and Fannie Mae, is that a high percentage of sub-prime borrowers - anywhere from 10 to 50 percent -- could qualify for prime loans, but were steered to a higher-cost loan anyway.

While high profile enforcement actions have been taken against some of the most notorious offenders of abusive practices and some institutions perform due diligence on loans they securitize, it is clear existing protections are not enough. We must do more. I do recognize that Intro 67A will not single handedly correct all the abuses and right all the wrongs out there.

We must continue educating consumers. At the same time we must close the loopholes that govern all those who are guilty of these abusive practices. I recommend that the City Council enact legislation governing home improvement contractors that engage in predatory practices. We must also encourage our federal and state colleagues to strengthen consumer laws that affect loan originators and mortgage brokers that prey upon unsuspecting borrowers.

Let me be clear. There is a place in New York's economy for responsible sub-prime lending. These loans, if properly underwritten, provide needed credit to those who have less than perfect credit histories. No one wants to shut down the sub-prime market and Intro 67A won't do that, but the City of New York should not be subsidizing predatory lenders.

Intro 67A attempts to address predatory lending by going after high-interest residential loans. The legislation creates an annual percentage rate or APR threshold of 5 percentage points above the T bill yield for first lien mortgages,

and fees thresholds generally of 5 to 6 percent of the total loan amount. For example, that means that loans currently with interest rates above 10 percent would be scrutinized. These are meaningful and sensible thresholds.

For loans above these thresholds, the bill lists sixteen characteristics that trigger identification as a predatory loan; however, the presence of one or more of the sixteen characteristics, in and of themselves, does not necessarily make a loan predatory. Therefore, this is an area that may warrant more discussion and discretion.

The proposal also requires any financial institution that receives city financial aid or does business with the city to certify that the institution and its affiliates do not engage in predatory lending. The certified statement is made part of the underlying contract.

The legislation also targets securities firms that support unscrupulous lenders and middlemen by providing them capital through the purchase of these loans. Make no mistake about it. This securitization allows predatory lenders to operate. I believe that the due diligence imposed on the securities firms by the legislation will allow the secondary market to flourish while also providing proper enforcement.

The bill places a large enforcement responsibility on the Office of the Comptroller. With your support and assistance, I believe we will be able to take on this challenge. It is not an onerous burden for my office.

As Comptroller, I am a member of the board of trustees of four separate pension funds. With respect to pension fund investments, the bill authorizes me to recommend to the pension boards whether or not to continue to invest in financial institutions that are found to be predatory lenders. I may make recommendations to the trustees, who then decide what the policy will be. Note that the Comptroller and the trustees must act in a manner consistent with their fiduciary responsibilities and only after extensive examination of the issues.

Regarding city contracts and financial assistance, the Comptroller forwards his findings to the city agency that entered the contract or awarded the financial assistance. The city agency determines whether to rescind the contract or terminate the financial assistance.

The legislation also provides an opportunity for institutions deemed predatory lenders to present corrective action plans and change their practices before punitive action is taken. This prudent provision is in the best interests of consumers, lending institutions, and the market place.

Remember, at the end of the day, abusive lending practices have a profound economic and social consequence for our senior citizens, women, people of color

-- those hardworking New Yorkers who have saved their whole lives to buy a home and a piece of the American dream.

This legislation will help us to protect them.

I commend you, Council Members, for your work and thank you for your time.

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