STATE ATTORNEYS GENERAL
A Communication From the Chief Legal Officers
Of the Following States and Territories:

Arizona * California * Connecticut * Guam * Hawaii * Illinois * Iowa
Louisiana * Maine * Massachusetts * Minnesota * Mississippi * Missouri
Montana * Nevada * New Jersey * New Mexico * North Carolina * Ohio
Oklahoma * Oregon * Tennessee * Vermont * West Virginia

August 17, 2009
Via Facsimile

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Barney Frank
Chairman
Financial Services Committee
United States House of Representatives

The Honorable Spencer Bachus
Ranking Member
Financial Services Committee
United States House of Representatives

Dear Senators Dodd and Shelby and Representatives Frank and Bachus,

As the chief law enforcement officers of our states, we strongly support legislation to create a Consumer Financial Protection Agency ("CFPA"). The current financial crisis, caused in part by irresponsible subprime lending and inadequate oversight, has demonstrated the need for comprehensive and effective consumer protection and enforcement at the federal level. We believe an independent federal agency combined with joint enforcement by state officials is the best option for meaningful consumer protection in this area.

We look forward to forging an alliance with a federal regulator that has the protection of consumers and the promotion of sound credit practices as its central agenda. We appreciate the fact that this legislation recognizes the key role that state Attorneys General serve in spotting new frauds and abuses, responding to citizen concerns, and enforcing state laws. The preservation of our role is critical to fighting fraud in the financial marketplace and a crucial factor in our support of this legislation.

1. Support for the creation of a Consumer Financial Protection Agency

The creation of a new agency whose sole mission is to address consumer protection is vital. There is clearly a need for effective regulation of consumer financial products that crosses existing regulatory lines. The most effective way to insure fair dealing in the marketplace is to establish clear, firm rules and to enforce those rules with clear, firm consequences. The new agency will be a needed voice for consumers at the federal level and will encourage innovation and choice. It will give

consumers the tools to make informed choices as well as provide the tools to law enforcement agencies to protect consumers from unfair and deceptive practices.

The state Attorneys General stand ready to collaborate with the new agency to develop rules based on the experiences and needs of our citizens. Partnered with the state Attorneys General, the new agency promises to be an effective check on the recent excesses of the financial industry. We believe that an independent federal consumer agency, with a focus on consumer protection, will help restore confidence in the financial marketplace and should be implemented as swiftly as possible.

2. Support for joint enforcement authority of new federal rules

The state Attorneys General are well suited to assist with the development and enforcement of the CFPA's rules. Like the existing federal regulators, the new agency will never have enough resources to comprehensively reform the financial marketplace across the entire nation. Allowing the states to participate in enforcement of the federal rules will maximize government resources, improve accountability, fill unexpected gaps, and encourage innovation in approaches to emerging fraudulent practices.

Maximizing compliance with these rules through enforcement by both federal and state officials will promote honest competition and reward compliant businesses, while deterring potential violators. Early detection and swift action to stop fraudulent practices can protect competitors from the pressure to adopt abusive but profitable practices before they spread in a race to the bottom. The availability of a nationwide network of enforcement agencies ready to take action, if necessary, will deter violators and encourage honest competitors who do not need to break rules to win customers.

States can also assist in educating consumers and improving consumer confidence in the marketplace. Consumers are far more familiar with and likely to seek help from local officials. Many states have the infrastructure and expertise to effectively respond to and resolve complaints while providing leadership in their localities for reaching collaborative solutions.

This legislation will allow state Attorneys General to cooperate with other regulators in areas where our missions are similar and engage in constructive dialogue where they are not, so that we can encourage honest competition and deter fraud in a consistent, effective and collaborative manner.

3. Preservation of state laws

One of the most important reasons that we support this legislation is because it preserves the states' ability to protect consumers. Historically, states have been proven leaders in fighting unfair and deceptive practices. We believe that state consumer protection laws should apply equally to all banking and financial institutions within the states' jurisdiction, regardless of whether they are state or federally chartered. The legislation as introduced gives state regulators authority to enforce their consumer protection laws against federally chartered institutions, and we urge Congress to keep this provision in the final bill.

Unfair and deceptive practices, by their nature, are constantly evolving. Because of our local presence, Attorneys General are well positioned to identify new trends, and we have long served an important role in finding innovative responses and solutions to these practices.

Fraud perpetuated by mortgage rescue scams is a perfect example of the states' lead role in combating fraud . Currently twenty-seven states have passed legislation to protect their citizens from scam artists who falsely promise consumers who are in trouble that they will protect them from foreclosure. These scam artists induce desperate homeowners to pay up-front fees often totaling thousands of dollars in return for a loan modification that never comes ("advance fee foreclosure rescue schemes"). The states are aggressively enforcing their specific foreclosure-rescue laws through dozens of lawsuits and scores of cease and desist orders to stop these schemes. Being on the frontlines of consumer fraud, the states are nimble enough to recognize and react to such new frauds. The FTC, which is currently considering issuing rules on advance fee foreclosure rescue schemes, is carefully taking into account the experience of the states in this area. In this way, the states' traditional role as the laboratories of democracy also benefits federal agencies seeking to implement national solutions and regulations. Congress should support the existence of additional enforcement resources to fight fraud at all levels of the financial marketplace.

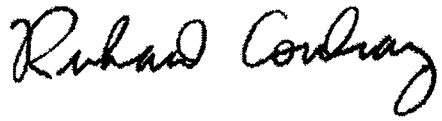
We urge Congress to take swift action to pass legislation that contains the tools needed to move forward past the mistakes that have undermined our economic stability and toward a better future for consumers and the nation.

Respectfully,

Tom Miller
Attorney General of Iowa

Roy Cooper
Attorney General of North Carolina

Lisa Madigan
Attorney General of Illinois



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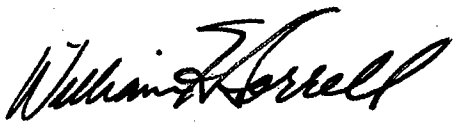

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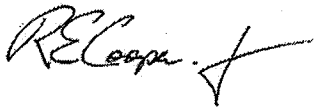

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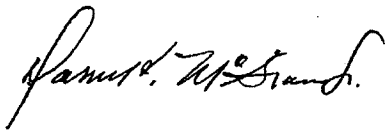

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