

Rural Voices

THE MAGAZINE OF THE HOUSING ASSISTANCE COUNCIL

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Predatory Lending



IN THIS ISSUE

Subprime lending myths ... elderly targets of predatory lenders ... how to protect against abusive lending practices ... and more.

Dear Friends,



Access to credit makes affordable housing possible for many Americans and strengthens communities.

However, accessing credit that is offered on unfair, unreasonable, and predatory terms can rob unsuspecting borrowers of their homes and contribute to community decline. Predatory lending has received considerable attention in recent years, as low-income communities have been targeted by lenders using aggressive marketing and often illegal methods to increase their profits at the expense of borrowers.

This issue of *Rural Voices* is devoted to exploring predatory lending and understanding its impact on rural communities. It is important to understand what predatory lending entails. While all predatory loans are subprime loans, not all subprime loans are predatory. According to the National Community Reinvestment Coalition, predatory loans are those loans that 1) charge more in interest and fees than covers the associated risk, 2) contain abusive terms and conditions, 3) do not take into account the borrower's ability to repay, and 4) target women, minorities, and communities of color.

Initial findings from a statewide coalition's study of lending in rural Iowa are presented in this issue to provide some insight into the increase in subprime and predatory loans in local communities. The impact of predatory lending on a South Carolina community is also described, along with several profiles from victims of predatory lending in the manufactured housing industry. Aggressive measures are being taken by national organizations and community groups to protect unsuspecting borrowers from these loan products. In addition to fighting predatory lenders in the courts, national groups have designed programs to train and protect consumers from predatory loans.

A common theme throughout these articles is that information is an important weapon in the battle against predatory lending. Community organizations can play a critical role in providing borrowers with information that can protect their homes. The articles in this issue provide tools that can be used and models of activism to protect rural residents from unscrupulous lenders.

Sincerely,

Debra Singletary, Chair

William Picotte, President

Moises Loza, Executive Director

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Except where noted, photographs in this issue are from HAC files.

HAC Facts

NOTES ABOUT SOME OF THE RECENT ACTIVITIES, LOANS, AND PUBLICATIONS OF THE HOUSING ASSISTANCE COUNCIL

Workshops Set for El Paso, Memphis

Practical training for rural housing providers will be provided again in 2002 as HAC repeats its popular session, "Building Organizations, Building Homes: A Practitioners' Workshop on Affordable Rural Housing." A workshop was held May 20-23 in El Paso, Texas, and another is scheduled for June 17-20 in Memphis. Each will provide training on two tracks, one for nonprofit groups relatively new to rural housing, and one for those with more experience.

In El Paso, an optional half-day additional session covered new resources in the border colonias. An optional June 17 session in Memphis will focus on developing self-help housing.

Details are available on HAC's web site, www.ruralhome.org. Those without web access may request printed brochures from Marisa Neal or Beatriz Melendez, 202-842-8600, marisa@ruralhome.org or beatriz@ruralhome.org. Space is limited, so early registration is encouraged.

National Rural Housing Conference Scheduled

"Building Communities, Changing Lives: National Rural Housing Conference 2002" will be held December 5-7, 2002 in Washington, D.C. Sponsored by HAC and cosponsored by many others, the conference offers workshops, training, policy roundtables and networking opportunities for local rural

housing producers, policymakers from all levels of government, national housing advocates and others. Space for pre-conference meetings will be available on December 4.



To receive more conference information as it is released, subscribe free to the *HAC News*. To get the newsletter by e-mail, send a message to Majordomo@webrex.net with "subscribe hac" in the body of the message. To get it by U.S. mail, contact Luz Rosas, 202-842-8600, luz@ruralhome.org.

HAC Seeks Nominations for Rural Housing Awards

HAC is accepting nominations for two awards honoring individuals for their contributions to rural housing. Service on the national level will be recognized with the Clay Cochran Award. Community-level activities that have improved housing conditions for the rural poor will be honored by the Skip Jason Community Service Award. Award recipients will receive stipends and a waiver of registration fees for the National Rural Housing Conference in December, where the awards ceremony will be held. To nominate someone or for more information, contact Lilla Sutton, HAC, 202-842-8600, lilla@ruralhome.org, or visit www.ruralhome.org.

Kudos for Board Member Dolbeare

Cushing N. Dolbeare, long a member of HAC's board of directors, has received the Heinz Award for the Human Condition



Cushing N. Dolbeare

"in recognition of 50 years of tireless commitment to the principle that decent housing is basic to our social fabric, and for her effective advocacy on behalf of poor Americans with housing problems." The National Low Income Housing Coalition, founded by Dolbeare in 1974, recently honored her 50-year career as well. She serves on the Millennial Housing Commission and in January she was appointed Senior Scholar at Harvard University's Joint Center for Housing Studies. HAC is proud to work with Cushing Dolbeare and to have her among its many distinguished board members.

HAC Releases Study on Rental Preservation

A new report from HAC pinpoints the locations of housing developments funded by USDA's Section 515 rental housing program and reports on ways they can be preserved for affordable use. The report includes two case studies of successful nonprofit buyouts of Section 515 projects, maps of project locations in each state, county-by-county information on projects and markets, and a county-by-county list of housing nonprofits. *Rural Rental Housing Preservation and Nonprofit Capacity to Purchase and Preserve Section 515 Projects* is available free on HAC's website, www.ruralhome.org, or for \$10 from Luz Rosas, HAC, 202-842-8600, luz@ruralhome.org.



The Myths of Subprime Lending

by David Berenbaum

These practices undermine our collective work to expand equal access to credit.

Let's cut to the chase. There has been too much rhetoric and too little straight talk about "predatory lending" in our nation's rural communities. The Fair Lending Consumer Rescue Fund of the National Community Reinvestment Coalition (NCRC), designed to refinance consumers who are in problematic subprime loans, has received dozens of requests from member organizations and consumers in rural communities across the country, including Indian Country and the colonias, to advocate for consumers who have been victimized by predatory lending.

In recent testimony before the Senate Banking Committee, NCRC defined a predatory loan as an unsuitable loan designed to exploit vulnerable and unsophisticated borrowers. Predatory

loans are a subset of subprime loans. A predatory loan has one or more of the following features: 1) charges more in interest and fees than is required to cover the added risk of lending to borrowers with credit imperfections, 2) contains abusive terms and conditions that trap borrowers and lead to increased indebtedness, 3) does not take into account the borrower's ability to repay the loan, and 4) often violates fair lending laws by targeting women, minorities, and communities of color.

There are lenders and brokers in rural communities engaged in not only deception and fraud, but also discrimination. They need to be held accountable. While they masquerade as good neighbors, bankers, brokers, and legitimate business people, these "predators" systematically defraud innocent individuals out of their money and property. They accomplish their illicit purposes by means of fraudulent loans and high-pressure, unscrupulous methods.

Using these loans, predatory lenders extract unconscionable and unjust fees from their victims until there is no money left to extract; then they expropriate their victims' homes through foreclosures which, in many cases, the loans were specifically designed to facilitate. Predatory subprime lenders intentionally misuse and exploit the weaknesses in existing laws and regulations to their benefit and injure our communities every day. This lending is neither safe nor sound, and all too often is legal. Further, these practices undermine our collective work to expand equal access to credit.

ADDRESSING PREDATORY LENDING

Advocates in rural communities must be prepared to challenge the "myths" associated with subprime lending. First, subprime lending is not responsible for the all-time high levels of homeownership in the United States. Second, subprime lending is not responsible for ending redlining in our communities. Third, responsible subprime lenders will not stop underwriting mortgage loans in our neighborhoods simply because new legislation prompts industry "best practices" to replace "predatory practices" in our neighborhoods. And fourth, unfortunately existing laws — and certainly industry suggestions of consumer education alone — are not adequate to foster greater compliance on a voluntary, statutory, or regulatory level.

If a person holds someone up at gunpoint and robs them of their possessions, that person goes to jail. However, if a lender uses deception, high-pressure sales tactics, and other abusive means to steal another person's home — their most prized possession — the lender profits. Predatory lending is no different than robbery at gunpoint, and our laws and regula-

tions must adequately reflect that fact.

NCRC has been working with our members across the country to enact strong federal, state, and local legislation and regulatory codification to protect consumers. We applaud the efforts of Senator Sarbanes (D-Md.) and Representative LaFalce (D-N.Y.) to enact federal anti-predatory lending legislation and hope that “responsible lending” will become a mid-term election issue.

NCRC has also filed several new fair housing complaints on the basis of race, national origin, and disability against lenders who originated subprime loans with predatory terms that had tragic repercussions for the homeowners. These complaints, which NCRC has filed against several subprime lenders



Subprime lending is becoming the only option of all too many rural, low-income, and minority borrowers.

including banks, financial service corporations, and mortgage bankers, expose the depth of the individual victimization and the cost of neighborhood dis-investment forced upon our nation's communities by predatory lenders. For example, consider these case notes describing recent filings to the Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity:

- A disabled African-American senior citizen who has a terminal illness is approved for a refinance loan for which neither he nor his wife qualifies, and which has terms that they cannot afford and that are fraudulent.
- A young African-American entrepreneur has the equity stripped from a home he purchased with the assistance of a nonprofit affordable housing program and is scammed at settlement.
- An elderly African-American couple discover after they default on a loan and are trying to negotiate a short sale that they have been “flipped” several times through the mortgage refinance process and that their loan has a prepayment penalty and other predatory terms that delay the sale of the property.
- An elderly Latina is charged a double digit interest rate that has no correlation to her credit score or the risk associated with the loan origination.

In addition to these and other cases, NCRC is currently providing counseling to consumers who have been referred to us by members, local governments, legal service providers, and AARP. NCRC is also furnishing civil rights technical assistance

and training to our members and is diverting resources to challenge illegal practices, including investigating complaints, preparing for civil rights litigation, and working for economic justice on a federal, state, and local level through augmented enforcement of the Federal Fair Housing Act, truth in lending legislation, and related consumer protections.

CONCLUSION

Subprime lending is becoming the only option of all too many rural, low-income, and minority borrowers. This reality sadly documents the continued existence of the race line in America and the continued existence of the dual lending market in the United States. It is NCRC's hope that these initiatives will create an early warning system that will serve both as a strong deterrent to predatory lenders who violate the Federal Fair Housing Act and also as a safety net to consumers and communities victimized by those who violate the law. This holistic approach will celebrate both NCRC's and our members' strengths while providing a pragmatic direct service initiative with quantifiable outcomes. This, in turn, should facilitate a market restructuring from a dual lending market that reinforces racial, ethnic, and economic lines to a single market based upon objective risk and underwriting practices.



David Berenbaum is Senior Vice President, Policy & Director of Civil Rights of the National Community Reinvestment Coalition. For more information on NCRC's fair lending best practice or private enforcement initiatives, please contact NCRC at 202-628-8866.



LENDING IN IOWA'S RURAL COMMUNITIES

Rural Lending Study Finds Subprime Lending Increasing, But Limited

by Shelley Sheehy and Hubert Van Tol

While some subprime loans are in the consumer's interest, others contain such high rates and fees that they harm the borrower and can rightfully be termed "predatory loans" because they place a borrower's home in jeopardy.

The Rural Housing Institute (RHI) has prepared a report on subprime lending as part of the Iowa Community Lender Partnership Initiative (CLPI). This project is an effort to better understand the current nature of home mortgage lending in Iowa, educate consumers about harmful mortgage products, and develop new partnerships between lenders and the communities in which they do business. RHI intends to use this study to encourage discussion and action that leads to the production and fairly priced financing of more affordable, high-quality housing in Iowa. This summary describes the preliminary findings of the research portion of the project.

Iowa, like much of the upper Midwest, is home to numerous strong community banks that fulfill many of the credit needs of their communities. However, subprime lenders are making inroads in our communities. After studying statewide Home Mortgage Disclosure Act (HMDA) data, and examining seven Iowa counties, RHI has concluded that

subprime lending has increased substantially in urban and rural Iowa over the past six years. This raises caution flags as we seek to increase homeownership among all Iowans.

Subprime loans have higher interest rates and usually higher fees than prime rate loans. Borrowers with poor credit records usually cannot obtain loans at standard rates and find that subprime loans are their only option. While some subprime loans are in the consumer's interest, others contain such high rates and fees that they harm the borrower and can rightfully be termed "predatory loans" because they place a borrower's home in jeopardy. Further, Freddie Mac and Fannie Mae, the secondary market giants, have estimated that between 30 and 50 percent of subprime loan borrowers actually have credit records that should allow them to obtain prime loans. In these cases, home equity that could be the basis for economic development in Iowa communities is being drained away by lenders whose corporate offices are often far away.

RHI's study of Iowa loans confirms some findings that are

common to other studies on this issue. Loans by subprime lenders are most often entered into by low- to moderate-income and minority borrowers. African-American, Native American, and Hispanic borrowers in particular appear to be targeted by some subprime lenders. The study also found that middle- and upper-income African Americans received a disproportionately higher number of subprime loans than prime loans. Certain groups of borrowers, such as people buying mobile homes, are also very likely to receive loans from subprime lenders. Subprime lenders are also more likely to make refinance loans than home purchase loans.

RHI's study contains the good news that subprime lending has not infiltrated the most rural counties as deeply as feared. The study illustrates that the currently available data often exaggerates the presence of subprime lenders in nonmetropolitan counties. There is a significant amount of lending by small prime lenders who do not report their loans to the federal regulators under HMDA. Their data, therefore, are not reflected in studies based solely on HMDA. RHI believes this is good news because it means that rural Iowa's homeownership solutions are not dependent just on the large national lenders, but can also be improved by partnerships between affordable housing groups and local community lenders.

To help Iowa homebuyers access loan products that are best for them, RHI proposes a three-pronged approach for future work on this issue.

- **expand financial education and homebuyers counseling efforts in Iowa.** RHI believes that Iowa's financial institutions and state and local governments have a role to play in funding and overseeing additional efforts to prevent the financial abuse of our residents. We believe that financial education should be available for all high school and college students and for those populations targeted by subprime and payday lenders. RHI proposes a concentrated homebuyers counseling effort that would strongly encourage, and provide incentives for, every borrower to obtain homebuyer counseling before entering into loans that have high interest rates, high fees, or other "predatory" characteristics.

- **improve data reporting and collection procedures to improve public monitoring and regulation of high cost loans.** RHI proposes a series of recommendations for state and local officials to develop policies, regulations, and

laws that help better protect Iowans from abusive lending. While a wealth of scattered data is available, particularly for the metropolitan areas, most information regarding rural trends is not easily accessible or is difficult to collect.

- **improve partnerships between community nonprofit groups involved in affordable housing and socially responsible lenders.** Most current data indicate that consumers enter into abusive loan situations because they lack financial education. Since the consumer does not believe that traditional lenders would be willing to loan to him/her, the customer will submit to the high pressure marketing policies of the predatory lender. Traditional lenders have a vested interest in developing the wealth of their customer base and community groups are uniquely suited to provide some of the services that can make this possible. RHI believes that partnerships formed around financial education, encouraging the "unbanked" to open bank accounts, home buyer counseling, community development efforts, and the development of high-quality affordable housing can create "win-win" situations for all parties.

During the last decade, the percentage of Americans who own their homes has been gradually increasing. Because homeownership provides low- and moderate-income individuals with a base for developing wealth and increasing their civic attachment to their communities, RHI believes that continuing this ownership expansion should be an important component of economic development in Iowa communities. We can only get to our goals if we know where we are. We want every Iowan who can to own a home and have a healthy credit relationship with a reputable lender.



Shelly Sheehy is with the Rural Housing Institute and Hubert Van Tol is with Fairness in Rural Lending. The Iowa CLPI is funded through an Economic Development Initiative grant by the U.S. Department of Housing and Urban Development. Analysis of the statewide HMDA data was conducted by the National Community Reinvestment Coalition and Fairness in Rural Lending. The research was guided and advised by the CLPI Research Advisory committee consisting of RHI and Iowa Finance Authority staff, the Iowa Bankers Association, Kathleen Keest, Assistant Iowa Attorney General for Consumer Protection, Heather MacDonald, Chair of the University of Iowa Graduate Program in Public Policy, Cathy Lesser-Mansfield, Professor, Drake University Law School, and Irene Hardisty, Fannie Mae, Iowa Partnership office.



PROFILES IN PREDATORY LENDING

In Over Our Heads

by Kathy Mitchell, Kevin Jewell, and Rob Schneider

“The judge concluded there was fraud, but because the mobile home company did not agree to pay our living expenses from the start, they were not liable for the motel expenses. I felt cheated during the whole experience.”

The following profiles are taken from the Consumers Union Southwest Regional Office publication *In Over Our Heads: Consumers Report Predatory Lending and Fraud in Manufactured Housing*. The profiles illustrate the tactics used by predatory lenders to increase their profits by victimizing unwitting borrowers.

Consumers Union Southwest Regional Office recommends the following to address lending abuses in the manufactured housing market.

- Facilitate shopping by posting prices, notifying consumers of their full refund rights, and eliminating credit scoring models that penalize rate shopping.
- Provide a five day “cooling off” period after full disclosure of final loan terms with a cancellation right and full refund.
- Provide standard contracts and standard Spanish translations.
- Prohibit financed points if the points and fees together will add more than 3 percent to the home price.
- Require an independent inspection/appraisal of every home prior to release of loan funds.

MYSTERY FINANCE CHARGES

*Thea Gilliam, December 10, 2001
Cleburne, Texas*

This is our story. We went to Crown Mobile Homes in Cleburne, Texas to buy a mobile home in May 2000. We found a new single-wide on the used lot, but it was not used. We started talking to the salesman and he gave us a good price. He agreed to “hold” the home for a \$500 deposit. My husband recently had a bankruptcy discharged, and we had bad credit. My parents-in-law agreed to finance the home for us because they have outstanding credit. The salesman and manager agreed the mobile home would be signed, sealed, and delivered in three weeks. No later.

We had recently moved from Colorado and had nowhere to live, so we decided to live in a motel for three weeks until our home was ready. After about a week, we started to get the run-around about the land. They told us there were over 100 pieces of property to choose from. In reality, there were only about 10 pieces of property and they were all next door to each other and about 25 miles away. We decided on a piece of property

and thought everything would be getting along. Every day the closing on the land was delayed to a later date. We then got the contracts for the home.

The interest rate was higher than they told us. The interest rate that the manager of the company quoted us was around 10 percent. The contracts said 13 percent.

The monthly payment and down payment were higher than they told us. We were told that our total monthly housing payment would be \$450. The contract stated that it would be over \$600 a month.

They added the home insurance in two separate places. They also told us the insurance would be for three years, but it said one year in the contract.

They added set-up charges that were supposed to be free.

They also charged us for flood insurance in the contract in one place and in another part of the contract it said it was included in the insurance price.

We were not given copies of everything we had signed, but I made copies of everything before we signed them, that the manager was not aware of. I told them that my parents-in-law would not sign the contract like it was. The manager said there was no way to change it, because the finance company wrote the contracts. I told him I was not comfortable and that I would like my deposit back. He refused and said that they had fees to deduct from it because I wasted their time. He told me I would get the check in a few weeks.

I waited 15 business days and then filed a small claims case for my deposit and for the \$900 we spent to live in a motel room. The reason we lived in the motel was because there were no apartments available for a month-to-month lease while we waited for this home. I won the small claims case and my deposit was returned; however, I failed to be reimbursed for the motel expenses. The judge concluded there was fraud, but because the mobile home company did not agree to pay our living expenses from the start, they were not liable for the motel expenses. I felt cheated during the whole experience.

MISLEADING SALES

*Complaint to the Office of the Attorney General, May 6, 2001
Lone Oak, Texas*

Alice Hogue and her son Jimmy bought a 2000 Redman Stonebrook single-wide from an East Texas dealer in July of that year. According to Ms. Hogue, the dealer asked at closing whether they would like copies of the contracts and she declined, saying she could come by and get them later if she needed them.

Like so many others, Ms. Hogue trusted that there would



be no problems and the system would work as explained to her at closing. The dealer told her to make a list of anything that needed to be repaired and he would send someone out. When the home was installed she made her list of repairs and delivered it to the dealer, but the dealer did not send anyone to fix the home. This first glitch led to the discovery of others.

Tired of waiting, her son forwarded the information to the manufacturer, who sent out a repairman. While completing some of the repairs, the repairman told them that the home was actually a 1998 model, not a 2000 model. According to the NADA bluebook, a 1998 model is worth less than a 2000 model in 2000.

Upset that her new home might actually be two years old already, Ms. Hogue called the dealership back and told them she would come by to pick up those contracts. “He asked what for,” she wrote to the Attorney General in May 2001. “I told him I just wanted a copy of all the paperwork. T— said everything was at his house in case someone broke into the office. I told him I would be by the office the next day to pick them up. Well there’s been no next day. I’ve called. My son’s called. Went by the office. No one’s there.”

Mrs. Hogue eventually got a copy of the loan documents directly from the lender. The loan documents showed a place where “2000” was marked out and “1999” written in ink. “It also had my initials, which I don’t remember putting on the contract under the 99. I’m not

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FROM PAGE 7 saying I didn't initial it. I don't remember signing it. T— told us it was a 2000 model." Mrs. Hogue's 30-year loan also included \$3,225 in financed points, and her interest rate remained high at a 12.32 annual percentage rate.

She hoped the Attorney General could help her get copies of her contracts and the model year trailer she ordered, but when Consumers Union contacted her she had yet to receive copies of the contracts, and her son had moved into the home they had delivered.

BAIT AND SWITCH

Complaint to Office of the Attorney General, March 6, 2001, and Survey Response Confirming Satisfaction with Assistance San Antonio, Texas

Dealers will sometimes advertise the sale of a low-priced repossessed or used home to get people to the lot, then qualify them for a higher-priced new home instead. Nancy Richardson of San Antonio called the number on a newspaper ad for a repossessed home, and the number connected her with a dealership. After touring the available repossessed homes, she selected one, filled out a credit application and left \$500. The following week she called back. "Al told me he had not heard on the repo yet, but he had run an application for a new home and I was approved." Ms. Richardson insisted she was only interested in the repo. The next day she visited the lot and viewed the new home approved for her, but insisted she did not want a new home. A day after

her visit, the dealership told her that her credit application for the lower cost repossessed home had been denied.

"I feel like this whole thing is a scam and they use these repos to bait you and then reel you into a new home," she told the Attorney General. "I will not be forced into buying a new home with higher payments than I can afford." After two letters from the Attorney General, the dealership gave Ms. Richardson her \$500 back.

Complaint to Office of the Attorney General, April 26, 2000 San Antonio, Texas

A former employee of a dealership in San Antonio filed a whistleblower complaint alleging that the dealership ran deceptive bait-and-switch ads for a non-existent home in Leon Valley. The ads referenced non-existent sales people, and when consumers called they were told that those salesmen were out but someone would call them back. Then a real sales person would invite the consumer to see three homes, none of which was the non-existent home in the advertisement, and pressure the consumer to select one.



Kathy Mitchell, Kevin Jewell, and Rob Schneider are with Consumers Union Southwest Regional Office, a nonprofit membership organization chartered to provide consumers with information, education, and counsel about goods, services, health, and personal finance. The full report summarized in this article is available at www.consumersunion.org/mh/.

Defining Predatory Lending

by Kathleen C. Engel and Patricia C. McCoy

Kathleen Engel is an Assistant Professor and Patricia McCoy is a professor at the Cleveland-Marshall College of Law. This definition is taken from the authors' monograph, *A Tale of Three Markets: The Law and Economics of Predatory Lending*.

While predatory lending has been difficult to define, it can be described as a series of abusive lending practices that are targeted at vulnerable populations and result in increased costs to the borrowers and potentially the loss of their homes. Predatory lending involves

- loans structured to result in seriously disproportionate net harm to borrowers;
- harmful rent seeking;
- loans involving fraud or deceptive practices;
- other forms of lack of transparency in loans that are not actionable as fraud; and
- loans that require borrowers to waive meaningful legal redress.



HOMEOWNERSHIP AND PREDATORY LENDING

A Rude Awakening from the American Dream

Of great importance is the need for intensive consumer education programs to empower homeowners to understand their rights, know their options and pursue alternative sources for financing.

Homeownership is the cornerstone of community redevelopment because of the stabilizing impact it has on neighborhoods. Through their investment in their residence, homeowners have bought into a community, and therefore are more likely to maintain their property, participate in community-sponsored activities, and vote in local elections. Such commitment is especially important in distressed or lower-income neighborhoods where disinvestment and absentee or negligent landlords have led to deterioration. Homeownership is an effective tool in rebuilding these neighborhoods, as it stimulates civic pride, creates economic opportunity, and promotes stability. Accordingly, community developers have worked to provide low-income families with access to the counseling and funding mechanisms to enable them to purchase homes. These efforts, coupled with the creation of innovative financing vehicles, the overall economy, and technological advances such as credit scoring, have had a marked result, with conventional home mortgage lending to low-income borrowers increasing by 75 percent from 1993 to 1998.

However, with this significant increase in housing-related wealth, there has also been an increase in anecdotal reports of abusive and unscrupulous credit practices, known as predatory lending, that

strip homeowners of the equity in their homes. These tactics include the assignment of excessively high fees and interest rates, the origination of repeated refinancings within a short period of time, the long-term financing of lump-sum credit insurance premiums, the extension of a loan without regard for a borrower's ability to pay and, in some cases, fraud. The cumulative effect of these practices is unmanageable debt, a dilemma that is economically devastating to families and neighborhoods and that is jeopardizing the remarkable progress that community developers have made in rebuilding distressed communities and creating homeowners.

WHAT IS PREDATORY LENDING?

In very general terms, predatory lending is a process, often starting with misleading sales tactics, that culminates in the origination of a loan to a borrower who is paying too much in fees, interest, or insurance; may not fully understand or was not made aware of all of the provisions of the contract; and/or many not have the financial capacity to repay the loan.

While the consequences can easily be described, a specific definition is much more difficult to derive because it is not necessarily the existence of an individual



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FROM PAGE 9 feature of a credit arrangement, but rather the distortion of commonly used sales and underwriting tools to the detriment of borrowers. When used appropriately, these fundamental aspects of the lending process are practical and even advantageous to consumers. These examples illustrate this point:

Marketing usually increases consumers' knowledge of credit products and providers and promotes competition among lenders, which is beneficial to consumers. In contrast, when advertising is deceptive, it results in misinformation and leads borrowers to make decisions based on misleading or false data.

Creditors have the flexibility to adjust rates in accordance with the level of risk they assume. Loans priced above prevailing prime rates because of the higher risk they represent to the creditor are referred to as subprime. Ideally, subprime lenders provide consumers with access to credit that otherwise would not be available to them. For example, borrowers with flawed credit histories, high debt-to-income ratios or income that is variable or difficult to document typically do not qualify for prime loans, but often they can obtain credit in the subprime market. However, a subprime loan becomes predatory when excessive up-front fees and very high annual percentage rates significantly exceed amounts typically assessed on loans with comparable services and risk.

Refinancing enables homeowners to take advantage of lower interest rates or improved loan terms, generally reducing their monthly cost of credit. In contrast, when refinancings are frequent and "packed" with excessive fees, equity is continually eroded. Such lending is predatory, and the never-ending credit cycle is financially ruinous to the borrower.

Because of the complexity of the issues surrounding predatory lending, lenders and regulators alike are concerned that expansive regulatory action may discourage legitimate lenders from providing loans, impeding the flow of credit to households who need it the most — lower income individuals and consumers with troubled credit histories.

Often, such a borrower may become the victim of predatory lenders out of the need to secure funds for much-needed home improvements or to tap home equity as a source of cash for repayment of consumer debt. However, because of onerous credit terms, the loan proceeds and homeowner's equity are depleted through the payment of excessive fees. Ultimately, after the creditor has depleted all of the borrower's resources, the mortgage goes into foreclosure and the borrower loses his home.



WHO ARE THE VICTIMS OF PREDATORY LENDING?

Predatory lenders thrive on a consumer's immediate need for cash and/or a lack of familiarity with standard credit products and practices. Broadly speaking, predatory lenders consider ideal targets to be individuals with minimal cash flow and savings, equity in their homes, and limited experience with financial services. Demographically speaking, anecdotal reports suggest that residents of lower-income communities, minorities, women, and elderly individuals are disproportionately the victims of predatory lending.

WHAT IS BEING DONE?

With this issue gaining national attention, intensive efforts at the local and federal levels have been undertaken to identify the unacceptable practices of predatory lenders and consider actions to thwart their activities. The groups that are grappling with the problem agree that several strategies must be deployed to address this issue. Clearly, effective regulatory and legal mechanisms must be in place to establish acceptable lending practices and provide for consequences when those standards are violated. Of equal, if not greater, importance is the need for intensive consumer education programs to empower homeowners to understand their rights, know their options, and pursue alternative sources for financing.



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PROMISING DREAMS, DELIVERING NIGHTMARES

How One Community Fought Back

by Nancy Webb

Millions of dollars are being systematically stripped from our communities by bad actors using abusive lending practices.

Predatory lending is one of the most vicious threats to both our economy and our communities. While jobs and economic development help to build healthy and prosperous communities, predatory lending drains capital and any hope of wealth accumulation from the most vulnerable people — the elderly, the impaired, the young and inexperienced, minorities, immigrants, and especially single-parent households with low or moderate incomes.

Relaxation and elimination of state usury laws during the 1980s, deregulation of banking, a hot stock market, and the securitization of mortgage loans in the 1990s have made huge amounts of capital available to underserved markets. Lack of documentation, seasoning, oversight, disclosure, greed, and in many cases outright fraud have made the late nineties open season on the unprepared consumer.

Millions of dollars are being systematically stripped from our communities by bad actors using abusive lending practices. Predatory financial institutions gain profits by exploiting unsophisticated, uneducated, and over-leveraged consumers who are desperate for more credit. While not all subprime loans are predatory, most of the predatory loans come directly from the subprime market. The truth of these generalities is illustrated by the experience of Anderson County, S.C.

Anderson County is not experiencing as much of an economic downturn as the rest of South Carolina. However, the physical wasteland and economic depletion that we are experiencing today have been the result of a number of issues, including those mentioned above. The city of Anderson is the largest town in the mostly rural county of Anderson. On the surface, Anderson is a very desirable place to live. Located along Interstate 85, halfway between Atlanta and Charlotte, Anderson boasts good transportation routes, diversified industries, rapidly growing commercial investment, progressive government leadership, good schools, a low cost of living, and friendly people.

As inviting as this sounds, a segment of our population has

been experiencing the worst years of their lives losing their “affordable” homes. Drive anywhere outside of the city along the gentle rolling countryside through almost any mobile home subdivision built within the last three years and one would immediately notice the large number of vacancies and abandonment. Waist high grass or brush, trash on the lawn, and shutters hanging precariously are all indications that the property has been abandoned.

County planning department data indicated a dramatic increase in mobile home land/package sales beginning in 1998. This continued through 2000 with mobile home permits outnumbering stick built construction 5 to 1. In 1999 bankruptcy and foreclosure rates increased as well, mirroring the sales data. According to an investigation by *The State* newspaper in Columbia, Anderson County had the highest rate of foreclosure increase (more than 350 percent) over a five-year period among counties of similar size in the state.

In May 2002, the county set a monthly record of 98 foreclosures posted with the majority of these being the land/home packages. So flooded is the real estate market with repossessed mobile homes that their value has plunged, selling at between 10 and 50 cents on the dollar. Area real estate brokers predict that this condition will continue for two to three more years while the current inventory gradually works its way through the system.

LOCAL STORIES

Victims of predatory lending in Anderson County tell similar stories. In pursuit of the “American Dream,” county residents were leaving housing projects, substandard rental housing, or apartments with rising rents. In the worst cases, some were disabled, mentally challenged single-parent female households. Potential homeowners were attracted by new, spacious homes with additional bedrooms, open kitchens, large lots and, supposedly, a monthly payment they could afford. Instead, they ended up with insufficient

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Photo by Nancy Webb.

FROM PAGE 11 housing and inflated mortgage rates that were far beyond their financial means.

Advertisements of “No Credit, No Problem” offered the illusion of easy to own affordable housing opportunities. Signs appeared in Spanish in rural communities experiencing an influx of new immigrants. All too often, victims reported that aggressive salesmen asked leading questions concerning what they could pay monthly. Buyers were assured not to worry and that they could trust the dealer to make it work. However, at closing, the monthly payments were often several hundred dollars higher than the amount agreed upon — an all too familiar bait and switch tactic.

Homebuyers have reported discrepancies and misrepresentations on the part of mortgage brokers and manufactured housing sales companies that range from fictitious down payment reporting, inaccurate income and employment data, inflated appraisals and exaggerated sales prices to dual contracts and throw-away second mortgages. Most significantly, the HUD closing statements were falsified, which is a serious violation of federal law.

Many homebuyers were emotionally hooked, pressured, and shamed into closing. Families report that they were often told they could refinance the loan in six months to one year to lower the monthly payments. However, the dealer or lender failed to disclose any costs or payments associated with refinancing. If the buyer questioned the figures, s/he was often intimidated into finalizing the transaction. At least one dealership subsidized a portion of a borrower’s monthly mortgage payment for up to one year.

After closing, mortgagees often would be approached by other subprime lenders with offers to refinance their loan, pointing out the disadvantages of a one-year adjustable rate 15-year balloon mortgage with a high interest rate and high fees. Others would fall behind with their lenders and refinance

with excessive fees added. The victims were set up for failure with unsustainable mortgages.

These tactics often place new homeowners on the road to financial ruin. Falling behind on their mortgage payments, borrowers were pressured by aggressive collection tactics. With little downpayment invested and ruined credit, and unaware of any recourse or remedy, many simply walked away. A very noticeable trend became the norm in Anderson — abandoned homes in less than one year and foreclosure usually following within the next year. Unbelievably, some displaced consumers went back to the original dealership and bought another mobile home located in the same subdivision.

LOCAL RESPONSES

Some victims asked questions and became vocal activists to help prevent further displacement. One of those was a young man named Kenny Baker. Frustrated by a number of unresolved legal issues about his driveway, foundation, and road, Kenny erected a large obtrusive sign in his front yard warning, “Run While You Still Can, We Did Not.” Kenny found a Spartanburg attorney, David Alford, who was representing a subdivision from Gaffney, S.C. that had been developed by the same dealer. After his story appeared in the local newspaper, other victims contacted him for information and assistance. Kenny started a local support group for victims called “Citizens Against Housing Fraud.”

As the number of foreclosures and lawsuits grew, the *Anderson Independent* newspaper ran a series of follow-up stories. They were deluged by calls from people who simply wanted to talk to someone. WYFF, the local Greenville NBC affiliate TV station, ran a series of graphic personal stories on their “Buyer Beware” segments. Publicity of this type created an awareness that led to an FBI investigation of lending practices across the state and contributed to a number of plea agreements and indictments for federal mail and wire fraud.

Local consumer advocacy attorneys, representing individual victims and whole subdivisions, have filed numerous civil law suits against area developers, mobile home dealers, mortgage brokers, lenders, and attorneys. Charles Griffin, a local attorney, has been successful with certain lenders who willingly renegotiated or revoked the mortgages. A large number of civil suits are still pending and some are in arbitration.

Sue Berkowitz of the Appleseed Legal Justice Center in Columbia has led the fight to change current state laws to protect the consumer. Her nonprofit agency has a grant to train attorneys in civil litigation on predatory lending issues. Her tireless efforts to change South Carolina law to protect the

consumers are well documented.

Other legal actions have taken place in other parts of the state. In 2000, a \$20,135,000 arbitration award was made to 3,739 South Carolina Consecro (formerly Greentree) customers who did not have their choice of attorney or insurance agent between 1993 and 1995. In most cases, however, arbitration limits a consumer's ability to obtain full redress.

Providing consumers with clear and accurate information continues to be one of the most important weapons in the fight against predatory lending. The Community Housing Resource Board of Anderson hosted an information campaign during Fair Housing Month last year. Using the resources of South Carolina Human Affairs and HUD, their activities included discussing the dangers of predatory lending at a morning radio talk show, speaking to a Finance Academy class at a local high school, hosting a luncheon forum at the Strom Thurmond Institute at Clemson, conducting a Community Town Meeting at the Westside Community Center, and hosting a Fair Housing Banquet at the Civic Center. Additional workshops are held periodically for credit repair, disability, landlord-tenant issues, and other fair housing issues.

In 2001, during National Consumer Protection Month, the South Carolina Department of Consumer Affairs conducted the first national teleconference on predatory lending, which was hosted by SCETV. The panelists included Stella Adams of the North Carolina Fair Housing Center; James Carr, Senior Vice President of the Fannie Mae Foundation; James Pilkington of the Atlanta office of the Federal Deposit Insurance Corporation; and other advocates who spoke of the impact of all forms of predatory lending, including mortgage fraud. The group of advocates that made up the steering committee has now formed the South Carolina Coalition

Against Predatory Lending.

The Governor's Task Force on Affordable Housing recently completed a lengthy report for Governor Jim Hodges with a number of recommendations, including the impediment of predatory lending. A statewide affordable housing feasibility study is in progress. In February 2002, Senator David Thomas of Greenville introduced a bill with bipartisan support to curb predatory lending abuses in South Carolina. He and consumer advocates face a difficult uphill challenge against the special interests that oppose the bill.

WHAT YOU CAN DO

Communities and churches are coming together to address the plight of cost-burdened families and the homeless. Informed victims are not walking away. They are fighting back through the media and with the able help of consumer advocacy attorneys. To be successful, a coalition of grassroots organizations along with the banking industry, Realtors®, home builders, the manufactured housing industry and elected officials at every level of local, state, and federal government are going to have to join hands and hearts together to work to find the permanent solution.

By committing to zero tolerance for abusive lending practices, this economic hemorrhaging can be stopped! Help victims find the appropriate governing board or legal authority and make an official complaint. Form a community action team. Talk to organized groups who will listen. Demand action from your elected officials. Follow up frequently. Never give up. To own the "American Dream" is great. To keep it is another matter.



Nancy Webb is a Realtor® with RE/Max Foothills Realty in Anderson County, S.C. and a volunteer member of the Community Housing Resource Board of Anderson, S.C.

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SWEATING THE EQUITY

Unscrupulous Lenders Prey on Older Homeowners

by Susan Ann Silverstein

Because equity-rich, cash-poor older homeowners living on fixed incomes present an enticing target, they have been disproportionately victimized by predatory lending schemes.

A home is the largest asset many people possess, and may be the only significant one. After years of monthly payments, many older people may own their homes mortgage-free or have built up significant equity. At the same time, retirement, disability, or other age-related problems can leave older people cash-poor — unable to make needed home payments or afford health care. They may be isolated from their families, on fixed incomes with little access to traditional sources of cash or in poor health with mounting financial pressures, and they may possibly have mental impairments that leave them easily confused. These factors make older people an attractive target for many unscrupulous businesses, such as home repair scams and predatory lenders, who have found a way to make a profit by “stealing” the equity from the homeowner.

AARP has a long history of fighting for meaningful borrower rights, strong enforcement of the laws and mechanisms that allow regulators, oversight bodies, and other governmental entities to supplement individual efforts to protect rights. AARP Foundation Litigation contributes to these efforts by representing borrowers in court and by writing amicus curiae (friend of the court) briefs in litigation against predatory lenders. In addition, AARP Foundation’s Reverse Mortgage Project works to ensure that older homeowners know the rights, risks, and options available to them in obtaining a reverse mortgage, which can be a legitimate means of using the equity in a home to meet ongoing, current expenses.

HOW PREDATORY LENDING SCHEMES WORK

Predatory lenders gain access to victims in a variety of ways. In some cases, they promise instant cash for bills or other needs through direct mail marketing, telephone solicitation, advertisements, flyers, and door-to-door home visits. Sometimes they team up with home-improvement operations to approach homeowners, suggest improvements and provide financing for those improvements — financing that carries enormous fees, costs and high interest rates.

Predatory lenders operate by encouraging homeowners to take on more debt than they can afford. When the borrower cannot make payments or meet the terms of the loan, the predatory lender offers to refinance the loan. The borrower incurs new costs and fees that are then added to the amount of the loan. Eventually the home’s equity is stripped, the borrower is crushed by insurmountable debt, and the borrower loses one of the largest emotional and financial lifetime investments — his or her home.

One tactic employed by many predatory lenders is to inflate the income of the borrower so that the loan looks more affordable than it is. Or the lender markets the loan as a good deal by focusing exclusively on lowering monthly payments, without revealing to the borrower the total amount of the cost of the loan (including interest and fees). Sometimes predatory lenders simply conceal or lie about the costs of the loan, in violation of federal and state truth in lending laws.

FIGHT AGAINST PREDATORY PRACTICES IN THE COURTS

AARP Foundation Litigation uses several approaches to challenge predatory lending practices:

- **consumer/borrower protection laws.** Borrower protections include the Truth in Lending Act (TILA), which requires adequate notification and opportunities for review of lending information, the Real Estate Settlement Procedures Act (RESPA), which prohibits some predatory practices and limits the types of fees that can be charged, and the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA), both of which prohibit discrimination in housing and other areas. There are a variety of state laws that bolster these protections, as well as local ordinances and regulations that provide additional protections, including those that address unfair, fraudulent, and deceptive practices.

- **contract law principles.** A loan agreement is a contract between the borrower and the lender and borrowers can enforce their contract rights. Take the case of Mary Ann Podelco. Shortly after she used her husband's life insurance proceeds to pay off their mortgage, Podelco began to receive telephone solicitations offering to finance home improvements or a vacation. She agreed to a small home improvement loan in May 1995 with Beneficial of West Virginia.

Less than two months later, Beneficial talked her into refinancing her loan. The solicitations persisted and intensified. Over the course of 16 months, Podelco was persuaded to refinance her home repeatedly — a practice known as “flipping.” Each refinancing imposed new costs and fees, charged a high rate of interest, and increased the principal owed on the mortgage. Each loan imposed an increasingly unaffordable monthly payment on Podelco, a widow who received only a small Social Security benefit for herself and a small disability benefit on behalf of her disabled granddaughter. In that short period of time, her mortgage went from zero to \$35,200. Sadly, as a result of the loan flipping she lost her home.

AARP Foundation attorneys teamed up with Mountain State Justice to represent Podelco. The attorneys argued that this kind of loan flipping is “unconscionable” under West Virginia contract law — a new issue that West Virginia's courts had not previously considered. *Podelco v. Beneficial West Virginia, Inc.*, was settled with a cash settlement that compensates Podelco and should help deter similar practices.

- **government enforcement.** Many victims of predatory lenders do not have access to legal representation. They need the help of governmental authorities charged with the mission of consumer and borrower protection. AARP Foundation Litigation works to ensure that governmental entities have the legal means to make and enforce borrower protection law, and to strengthen and enhance their efforts on behalf of borrowers.

In one case, AARP Foundation Litigation supported an Illinois state agency that was sued by a mortgage industry trade association. The trade association sued after Illinois issued regulations that protected borrowers from predatory lending practices by imposing a variety of restrictions on “high risk” mortgages. The lenders, in *Illinois Association of Mortgage Brokers v. Office of Banks and Real Estate*, tried to rely on the Alternative Mortgage Transaction Parity Act (AMPTA) to prevent state law from applying to them or other similar lenders.

In another case, AARP filed an amicus brief on behalf of the City of New York's consumer protection authority. That case affirmed the authority's power to oversee home sales despite arguments by a predatory lender that real estate transactions should be exempted from consumer protection enforcement. Additionally, to protect consumers against unfair, deceptive, and abusive businesses practices, all states have enacted consumer protection statutes which are meant to apply to a broad range of consumer transactions. The New York City case, *Polonetsky et al. v. Better Homes Depot, Inc.*, provided a precedent for combating predatory lenders who often try to argue that the broad and flexible terms of consumer protection laws exclude them.

- **civil rights laws.** Some predatory lenders can be challenged using anti-discrimination laws because they target minority homeowners and minority neighborhoods. Washington Mortgage Services (WMS) in Washington, D.C. had been a defendant in several predatory lending cases. In the spring of 1998, a former WMS employee approached AARP with information about the firm that revealed the behind-the-scenes details of systematic practices that prey on elderly minorities. One such practice, which WMS officials and employees called “granny hunting,”

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FROM PAGE 15 was to compile lists of older, minority women homeowners. AARP Foundation Litigation represented the borrowers in *Steele v. Washington Mortgage Services, Inc., et al.*, a case that challenged these practices under civil rights laws.

■ **relief despite lender bankruptcy.** In 1998, AARP took a leading role in the fight against predatory lending by suing First Alliance Mortgage Company on behalf of California homeowners who had been victimized by First Alliance's deceptive and expensive mortgage loans. Represented by AARP Foundation Litigation attorneys and their co-counsel in California, AARP brought the lawsuit as a plaintiff on behalf of its members. It alleged in its suit that First Alliance's grossly manipulative and fraudulent sales practices resulted in thousands of homeowners in 18 states signing up for predatory mortgage loans that skimmed 20 percent of the equity from their homes.

The lawsuit charged that First Alliance and its officers engaged in unfair business practices by violating state and federal consumer protection and lending laws and committing fraud. AARP sought a court order to dislodge First Alliance's illicit profits and return them to borrowers nationwide. AARP also requested an order to stop First Alliance and its officers from engaging in predatory lending practices in the future.

In March 2000, First Alliance declared that it was closing its doors, filed for bankruptcy, and argued that the lawsuit should not proceed. AARP and other advocates successfully

urged the court to allow the case to go forward to trial despite the bankruptcy. AARP's claims have been consolidated for trial with other claims brought by the Federal Trade Commission (FTC) and Attorneys General of six states and with a number of borrowers' cases including a nationwide class-action. A powerful combination of forces was arrayed against a long-time predatory lender.

CONCLUSION

Predatory lenders victimize both individuals and communities. Foreclosure rates rise, leaving vacant homes in their wake, and communities decline. Moreover, equity-stripping schemes take cash out of neighborhoods and shake the confidence of other homeowners. In short, equity-stripping and predatory lending schemes undo years of progress in community development across the country, hastening community decline.

Because equity-rich, cash-poor older homeowners living on fixed incomes present an enticing target, they have been disproportionately victimized by predatory lending schemes. AARP is vigorously working to crack down on predatory lending, enact strong statute and regulations, and enforce the laws to help all homeowners evade the clutches of abusive, equity-stripping schemes.



Susan Ann Silverstein is the Senior Attorney for Member Access to Legal Advocacy for the AARP.



RURAL VOICES

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Taking a Strong Stance Against Predatory Lending

by Craig Nickerson

To combat predatory lending and advance best practices, Freddie Mac is working with lenders across the subprime market to improve products and standards.

Predatory lending practices threaten urban and rural communities across the United States every day. Predatory lending involves a set of unfair techniques designed to strip away borrower equity. Some of these practices include excessive fees, dishonest lending transactions, and unjustifiable interest rates. No family or neighborhood should ever be held captive by predatory lenders.

With the help of the financial industry, Freddie Mac has been working hard to eliminate predatory lending. Lenders are making progress by promoting best practices to ensure that they are not originating predatory loans. Affordable housing advocates in urban and rural communities are strengthening their approach through public awareness so that consumers are better prepared to recognize and combat predatory lending practices.

Freddie Mac has taken a leadership position in combating predatory lending practices by implementing a vigorous set of countermeasures. We want to break the stranglehold that lenders have had on too many consumers and neighborhoods. Our

approach to combating predatory lending is multi-faceted. We will continue to fight predatory lending with a three-pronged approach:

- **policy.** Implement policies that fight abusive lending and promote responsible practices.
- **products.** Provide competitive and fair mortgage products so that borrowers have a greater choice of financing options.
- **public education.** Promote consumer education and outreach so that borrowers understand the mortgage lending process, their housing finance options, and how to avoid abusive lending practices.

POLICY: PROMOTING RESPONSIBLE LENDING PRACTICES

To combat predatory lending and advance best practices, Freddie Mac is working with lenders across the subprime market to improve products and standards. We are aggressively pursuing ways to protect consumers

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FROM PAGE 17 from predatory lending practices by refusing to purchase mortgages with the following characteristics.

- **prepayment penalties.** Freddie Mac will not invest in loans with prepayment penalty periods that exceed three years, for subprime mortgages originated after October 1, 2001. Freddie Mac is the first secondary mortgage investor to adopt such a stance on subprime prepayment penalty mortgages, as part of our on-going effort to bring a higher level of consumer confidence and market rationality to subprime mortgage lending.
- **up-front single premium credit insurance.** Freddie Mac will not purchase mortgages containing prepaid single-premium credit life, credit disability, credit unemployment, or credit property insurance policies obtained in connection with the origination of the mortgage, regardless of whether the premium is financed in the mortgage amount or paid from the borrower's funds. We spent months working with both the advocacy and the lending communities, reviewing the practice of selling up-front single-premium credit insurance products to be financed with the mortgage loan. After learning more about the cost of this product, the lack of clear disclosure and understanding, and how it was typically offered to subprime customers, we became increasingly uncomfortable with this practice. In addition, the premium paid from the borrower's home equity was usually financed at high rates.
- **high-cost hoepa loans.** Freddie Mac will not purchase or securitize high rate or high fee loans that exceed the limits Congress established in the Home Ownership and Equity Protection Act (HOEPA). We recommend that all customers also apply these requirements to their purchase-money mortgages.

PRODUCTS: AFFORDABLE LENDING AND COMMUNITY DEVELOPMENT PRODUCTS

Freddie Mac is working with our community development partners to introduce new products that meet the needs of borrowers with blemished credit. Our goal in the prime and subprime markets is to help secure long-term homeownership, at a fair price, for everyone who wants it. Borrowers need to know that there are many reputable lenders in their communities and that affordable home financing for their circumstances is available. Our affordable loan products, aimed at giving consumers with impaired credit greater access to low cost mortgage alternatives, include the following.

- **home equity loss protection (help) program.** The HELP program was developed in collaboration with the Neighborhood Reinvestment Corporation to provide relief for homeowners who are vulnerable: those owners who are burdened with excessive credit card or other installment debt

and whose homes are in need of repairs. The HELP initiative facilitates refinancing into a specially designed mortgage that does not have a minimum credit score. Nine participating NeighborWorks® network organizations provide intensive counseling to HELP borrowers to resolve financial problems and avoid future situations that could make them targets of predatory lending practices.

- **creditworks.** In partnership with the National Foundation for Credit Counseling (NFCC), Freddie Mac created *CreditWorks* to help move people burdened with excessive debt and impaired credit from subprime to prime mortgage loans by becoming eligible for market-rate mortgages faster than might otherwise be possible. *CreditWorks* borrowers take affirmative steps to improve their credit by participating in a Debt Management Program offered by participating NFCC member agencies. By making timely payments to their debt management program over a 12-month period and participating in homeownership counseling, *CreditWorks* borrowers qualify for market-rate loans, even with very low credit scores.
- **lease purchase plus.** Families with no credit or impaired credit can become homeowners using a three-year lease period to establish or reestablish their credit reputation. During the lease period, the lease-purchaser participates in comprehensive homeownership education and debt management counseling. After demonstrating the ability to make timely lease payments for three years, the family purchases the home by assuming the unpaid principal balance of the mortgage.

PUBLIC EDUCATION: THE BEST DEFENSE AGAINST PREDATORY LENDING

Freddie Mac is working with local and federal officials to educate borrowers about their rights under lending contracts and how to exercise those rights to provide the best defense against predatory lenders.

Our public education and outreach efforts to combat predatory lending practices include the flagship education campaign *Don't Borrow Trouble*.SM The campaign was pioneered in Boston by Mayor Thomas M. Menino and the Massachusetts Community & Banking Council. Over the past two years, Freddie Mac has expanded *Don't Borrow Trouble* to 24 locations nationwide, including Baltimore, Cleveland, Dayton, Oakland, Los Angeles, Atlanta, North Carolina, Southern Nevada, and Delaware.

The campaign combines an extensive public education campaign with comprehensive counseling services to help homeowners avoid scams and resolve any financial difficulties they may be experiencing. It is the first comprehensive national

The promotion of responsible lending in all segments of the conventional mortgage market promises to bring standardization, increased competition, a broader array of mortgage products, and lower costs.

consumer awareness/foreclosure prevention campaign providing education and counseling to individuals who call for help. Sites have taken a number of approaches to call intake. For example, in Atlanta, the United Way's "211" number is the central phone number, and callers are referred to appropriate *Don't Borrow Trouble* counseling agencies.

The education component teaches borrowers how to identify predatory lending practices in the mortgage process. The counseling component covers a variety of services, from credit and housing counseling to foreclosure prevention counseling and legal assistance. The campaign provides affordable housing professionals with the tools and materials required to educate homeowners about their financial options, informing them how to make wise, long-term housing choices and how to recognize common predatory lending tactics. The media tool kit, provided to all campaign participants, includes information to launch your own *Don't Borrow Trouble* campaign, including a CD-ROM, public service announcements, templates, tip sheets, and more. Freddie Mac also works with the National Consumer Law Center (NCLC) to provide consulting services and training for campaign participants.

In some instances, Freddie Mac also provides seed money to help communities jump-start a campaign. Local governments typically provide the primary funding source for most sites. However, more modest funding and valuable in-kind support in the form of staffing, printing, production, and airtime on city cable channels is also often included. Several communities have used HUD's Community Development Block Grant (CDBG) funding and, in some cases, money from private contributors like the local Realtors® association.

In each partnership, a lead agency is responsible for convening the local coalition, communicating with Freddie Mac on a continuing basis and designating a fiduciary agent. Government agencies and housing counseling organizations have taken an active role in mobilizing the campaign in a number of participating cities. Key participants also include Fair Housing Centers, Consumer Credit Counseling Services, Legal Aid Societies, and Legal Services.

Freddie Mac made the tools and materials from the *Don't Borrow Trouble* campaign available to approximately 1,100 communities whose mayors are members of the U.S.


Conference of Mayors. As a result, many areas have independently launched *Don't Borrow Trouble* campaigns.

Another successful Freddie Mac outreach effort is the national *CreditSmart*SM campaign, which is a consumer credit-education curriculum developed in collaboration with five of the nation's historically black colleges and universities. The campaign was designed to help consumers understand, build, and maintain better credit. The curriculum educates consumers about credit and money management, provides insight into how lenders assess credit histories, and explains the role of credit in achieving financial goals. The curriculum will be available in Spanish – *CreditSmart*SM *Espanol* – in fall 2002.

WORKING TOGETHER TO COMBAT PREDATORY LENDING

The promotion of responsible lending in all segments of the conventional mortgage market promises to bring standardization, increased competition, a broader array of mortgage products, and lower costs. Freddie Mac stands firm in our opposition to abusive lending practices that serve only to strip away the dream of homeownership. Freddie Mac will continue to work with lenders across the subprime market to improve products and policies in order to protect consumers from these abusive lending practices.

We will continue to support housing counseling organizations, legal assistance agencies, fair housing advocates, local governments, and other businesses that help to combat predatory lending through consumer education efforts. We will also continue to work closely with rural and urban communities, involved in the *Don't Borrow Trouble* campaign, to build more reliable sources of information for homeowners who seek assistance and advice on abusive lending practices and who want to better understand their financial options.

Together, we can effectively combat predatory lending. 

Craig Nickerson is Vice President of Community Development Lending for Freddie Mac. For more information on industry efforts to combat predatory lending, visit www.freddiemac.com/singlefamily/predlend.html. Communities interested in the *Don't Borrow Trouble* campaign and educational forums on how to jump-start your own campaign can visit the anti-predatory lending website at www.dontborrowtrouble.com.

MANY PROGRAMS, LITTLE HELP

The Farm Bill and Rural Community Development

by Patricia Sinicropi

The Farm Bill is Congress's policy statement not only on matters relating to America's food and agriculture industry, but also on matters relating to rural America as a whole, and therefore it means a great deal to those involved in rural community development.

Congress finally passed the Farm Security and Rural Investment Act of 2002, referred to as the Farm Bill, reauthorizing agriculture and rural development programs for the next six years. Total spending for farm subsidies and other programs benefitting farmers and agriculture producers is expected to exceed \$80 billion in new mandatory money at the end of a ten-year period, in addition to more than \$100 billion already set aside for farm spending over the same period.

Of the \$180 billion of spending this Farm Bill authorizes, only \$790 million, or 0.4 percent, is set aside for non-agriculture-related rural development needs; it is woefully inadequate.

The Farm Bill is Congress's policy statement not only on matters relating to America's food and agriculture industry, but also on matters relating to rural America as a whole, and therefore it means a great deal to those involved in rural community development. The 2002 Farm Bill clearly supports Congress's belief that the health and welfare of rural America is intrinsically tied to the health of America's farming community, particularly large farms. With less than 10 percent of rural jobs dependent on the farming economy, this view ignores a large segment of rural America and its economic and social problems.

More than 90 percent of the new spending authorized by this Farm Bill goes to farmers and agricultural producers in the form of loans and loan guarantees, direct payments for crops, and grants for value-added and industrial agriculture production. Approximately \$6.4 billion is authorized for food and nutrition programs for our nation's poor, including the re-establishment of food stamp benefits to legal immigrants who have lived in this country for five years or longer.

A total of \$790 million is available for non-farm-related rural community development activities. The allocation of mandatory funding reflects the real interest of members of Congress. In

examining the programs that received this spending, one clearly sees several themes emerge that reflect congressional thinking on matters important to rural America. For rural community development organizations involved in an array of rural development activities, there are several initiatives of interest.

CLEAN AND SAFE DRINKING WATER TOPS THE PRIORITY LIST

High on Congress's priority list is concern over water and its availability to rural households. This is understandable given that nearly one million rural households are still without running water, particularly in the South. Congress set aside \$360 million to fund the backlog in pending water and sewer loan and grant applications at the U.S. Department of Agriculture, which translates into approximately \$750 to \$800 million in program level funding.

Other provisions address the shortage of resources for water and wastewater systems in small rural communities. These include a set-aside in discretionary spending to help communities facing emergency drinking water shortages, a revolving fund to be operated by qualified nonprofit organizations to provide small loans for items such as small system repairs or extensions, and grants for refurbishing decentralized water well systems. Many of the conservation programs that received an increase in funding, like the Conservation Reserve Program, are also designed to address clean water concerns and to ensure that water supplies remain clean of pollutants, often the result of chemical and pesticide run-off from agricultural lands.

EQUITY CAPITAL FOR RURAL BUSINESS INVESTMENTS RECEIVES ATTENTION

The lack of private equity capital in rural communities also

emerged as a high priority item, at least for Senate members. While the House bill did not contain funding for equity investing, Senate Agriculture Committee Chairman Tom Harkin and Majority Leader Tom Daschle were able to keep a Senate-passed initiative in the final package. The Rural Business Investment Program will license approximately 50 Rural Business Investment Companies (RBICs) to provide venture capital financing to small rural businesses. The program is funded at \$100 million in mandatory funding, \$56 million for debenture financing and \$44 million in grant financing for technical assistance.

The program's design is a hybrid of the Small Business Investment Corporation (SBIC) Program and the New Markets Venture Capital Program, both of which are operated by the Small Business Administration (SBA). Community development corporations familiar with either program will easily understand how to operate an RBIC licensed under this program. However, the law requires USDA to contract the day-to-day operations of this program to another federal agency, likely to be the SBA, so it is unlikely the program will be operating anytime soon. It is also unclear, given SBIC's poor investment track record in rural areas, that SBA has the experience necessary to run a successful equity program targeted to these communities. We'll have to see.

AVAILABILITY OF HIGH TECHNOLOGY GETS A BOOST

Technology needs for rural communities also prevailed. The original House version of the bill contained funding for expanding satellite television to more rural households, while the Senate version contained funding for broadband. The final package contains monies for both: \$80 million for expanding satellite television and \$100 million to expand broadband Internet availability to rural communities. Eligible entities could include community development organizations that have the capacity and expertise to be able to furnish broadband services to underserved rural areas.

COMPREHENSIVE RURAL DEVELOPMENT FUNDING IS AVAILABLE

The Farm Bill also provides \$100 million for the Rural Strategic Investment Program (RSIP). A compromise between the House's Strategic Planning Initiative and the Rural Endowment Act that was passed in the Senate, the RSIP is highly process-oriented and restricted mainly to government entities.

The RSIP requires the Secretary of Agriculture to establish a National Strategies Board appointed by members of Congress to

develop a national rural investment strategy, which would govern grant decisions under the program. The national board would then certify regional investment boards that would submit development plans for its approval. The regional investment boards' membership is required to be at least 50 percent representative of local government and to cover a region of not more than 50,000. After the national board is named, regional boards are organized, and they write plans that are approved by the national board, money for rural community development might flow.

The size of grants available under this program is \$3 million with no private match required. Eligible activities for RSIP funding are mainly geared toward basic services and infrastructure projects. And, while the RSIP legislation does not prohibit community-based private nonprofit organizations from applying to be the fiscal and administrative agents for a regional board, the conference report language and overall program framework indicates a preference for economic development districts and regional planning councils.

Unfortunately, the Rural Strategic Investment Program provides for none of the flexibility or openness that was contained in the Endowment initiative. It duplicates ongoing functions of the federal government by devoting millions of dollars to new boards, bureaucracies, and plans. It will ultimately fund regional economic development districts with a vague set of program responsibilities and with no regard for targeting areas of need or economic distress. Further, because of the administrative layers, it will be years before there are results from the RSIP, if there are results at all.

VALUE-ADDED AGRICULTURE IS A RURAL DEVELOPMENT STRATEGY

In addition to non-agriculture rural development initiatives, Congress included funding for value-added agriculture production in part as a rural economic development mechanism. Congress included approximately \$650 million to increase value-added and bio-energy agriculture production. Products such as ethanol and bio-diesel fuels enable farmers and agriculture producers to increase the value of their crops and farming operations. This in turn should result in increased job opportunities at relatively higher skill and wage levels for rural communities in which these operations exist.

Niche farming and specialty crops are another example of a growing agricultural sector that Congress views as important in local rural economies. Many small farmers, especially in the Northeast and mid-Atlantic regions, are thriving from strong truck farming and pick-your-own operations. They are taking advantage of growing consumer

CONTINUED ON BACK COVER

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FROM PAGE 21 demand for fresh fruits and vegetables as well as for organically grown local produce. After many years of not providing any assistance for fruits and vegetable crops, Congress has finally opened the door to supporting these operations.

Many rural advocates believe that value-added agriculture and smaller community-based farming operations provide more support to the local economies of the communities in which they operate and are therefore critical community businesses. These investments can provide new economic development opportunities for rural communities prepared to take advantage of them.

A LOT OF PROGRAMS DOES NOT MEAN A LOT OF SPENDING

While Congress created many new programs to address important needs in rural areas, the lack of overall spending on critical

needs demonstrates a continued lack of political will to really help rural America prosper. Rural communities suffer from a lack of transportation, little access to healthcare, and very few jobs. The Farm Bill comes around every five or six years and spends a great deal of money on an industry that provides fewer than 10 percent of rural jobs. Congress has followed this spending pattern for over 70 years and yet rural areas continue to lack the most basic living standards — economic opportunity, clean water, and adequate housing. This Farm Bill will spend over \$180 billion on farm subsidies and only .4 percent of this spending will help the 90 percent of rural residents who don't rely on these subsidies for their livelihoods.

Rural America deserves better.



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