Testimony

before the

Subcommittee on Housing and Community Opportunity

and the

Subcommittee on Financial Institutions and Consumer Credit

at a Joint Hearing regarding

"Subprime Lending: Defining the Market and Its Customers"

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Testimony Written and Presented by:

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Chairman Ney and Ms. Waters, Chairman Backus and Mr. Sanders, and members of both subcommittees, thank you for the opportunity to address you on the important issue of subprime lending. My name is George Butts, and I am the Program Director of the ACORN Housing Corporation of Pennsylvania. I was the national President of the ACORN Housing Corporation from 1991 to 2003.

ACORN Housing has offices in 34 cities throughout the United States. To carry out our mission, we undertake three groups of activities:

1. We build and rehabilitate homes to increase the supply of affordable housing.

2. We provide housing counseling services to more individuals than any other organization in the country. 50,000 of our clients have become first time homebuyers. Our program emphasizes the one-on-one approach to counseling that has proven to be most effective at giving clients the information and tools they need. We counsel clients on the full range of housing finance needs: pre-purchase, delinquency, refinance, home equity, subprime, and predatory rescue.

3. We educate local, state, and national policy makers on affordable housing and housing finance issues, and on the threats to personal and community stability that are posed by predatory lending and abusive financial service practices

ACORN Housing works closely with our sister organization, ACORN, the Association of Community Organizations for Reform Now. With over 150,000 members in over 60 cities, ACORN has been a leader in the fight to end redlining through a strong Community Reinvestment Act (CRA), to crack down on predatory lending through testimony, publicity, and direct action, and to win economic justice for our communities. ACORN fights to win a voice for our families to improve education, increase access to health care, and assure fair housing for all Americans.

Let me start by saying that much of the problem of lack of capital in low-income communities is caused by the abdication by mainstream financial institutions of their responsibility to provide loans in our neighborhoods. This left a vacuum into which the subprime lenders moved. In recent years, we have made progress in making these banks provide capital to our neighborhoods. But these banks did not just wake up and decide to become good corporate citizens overnight. Conflict and struggle, which led to laws like the Community Reinvestment Act, forced them to change their ways. Now it is a fight not so much over the quantity of capital in our neighborhoods, but the quality of that capital. Just as in previous years, we will need to continue to fight to make sure the subprime market is cleansed of discrimination and predatory lending.

We have spent years working for increased wealth and stability in low-income communities, and in particular for access to credit and homeownership. We are starting to see the results of this work. A good example is a consortium we are part of in Philadelphia, where homeownership counseling groups, local banks, and city government joined forces to offer an innovative product that allows people to get loans at reasonable rates for home improvements. This means they can avoid refinancing their first mortgages, which often leads them into predatory loans.

We think that a well functioning subprime market has a useful role to play in helping to achieve the goal of access to credit for all. Unfortunately, there is a great deal that needs to be done to get from where we are now to a well-functioning market in this industry. Some of the steps taken in recent years--as a result of public scrutiny, regulatory action, and legal change in a some states--is helping us get there. For example, following embarrassing revelations about abuses in their subprime mortgage units, both Household International, now a subsidiary of HSBC, and Citigroup have eliminated most of the abusive product features and practices within those units, and have paid out large sums to compensate past victims. Both Fannie and Freddie have decided to bar the purchase of mortgages with abusive features, such as mandatory arbitration clauses and excessive points and fees.

However, for every reformed Household there is an unrepentant Wells Fargo Financial, and a dozen small subprime brokers who routinely engage in predatory practices. There remains a great deal that needs to be done to get from where we are now to a well-functioning market in this industry

In too many ways, the subprime market is still an unregulated "Wild West," with a dramatic lack of transparency and of competition. In order to construct a better marketplace for subprime loans, we need to eliminate the disparities and abuses in this market.   I will focus on two problems that need particular attention. The first is the problem of predatory lending, which shows there is still not an effectively functioning market in subprime loans. The stories of thousands of people across the country tell us that predatory lending is still far too prevalent among subprime loans. The second problem is the rampant discrimination in the subprime market shown by our annual study "Separate and Unequal: Predatory Lending in America." I will conclude with some recommendations for policymakers.

Our goal should be that every person gets the loan they need and qualify for, and no one is tricked or pressured into taking a loan they later regret. Strong laws against predatory lending, combined with stronger enforcement of the Community Reinvestment Act, will allow low- and moderate-income communities access to the fair credit they deserve.

Predatory Lending and the Lack of an Effective Subprime Market

ACORN has talked to thousands of borrowers across the country, and investigation into their lenders has shown that the same predatory lending practices have affected hundreds of thousands more. These are more than just "regrettable incidents," as the industry would have it.   These practices are systematic, and occur across the country, to people from all backgrounds and walks of life. They are particularly targeted at the most vulnerable: elderly, low-income, and minority homeowners.

Let me start with two stories, the first from Louisiana. An African-American couple named James and Doris bought a home through the GI bill – after James had served in the

Marines for twenty-five years – in 1994 with an interest rate of 8.5%, which was an 'A' rate at the time.

Wells Fargo Financial first contacted them by sending live checks in the mail, and they cashed one, which resulted in a very high-interest rate loan. Then Wells began pushing them to consolidate debts into their mortgage, promising lower monthly payments. In December 2001, Wells gave them a 9-year mortgage that the loan officer never told them included $10,700 in Wells' own financed fees – over 11% of the amount financed (compared to a typical 1% charged by banks). James and Doris were already adequately insured, but Wells told them it was required to finance in single-premium credit life and disability insurance policies, which stripped away another $6,400.

While 'A' rates had since fallen to 7.2% and despite all the discount points, Wells put James and Doris into an interest rate of 11.4%. The financed fees, credit insurance, and five-year prepayment penalty pushed them well over the house's appraised value of $90,000, preventing them from refinancing out of the loan. In addition, the loan officer told them only after closing that their new higher monthly payments of $1,490, unlike their previous mortgage, would not cover taxes and insurance, which cost them an extra $130 a month.

The much higher mortgage payments eventually caused James and Doris to fall behind, and they went back to Wells Fargo Financial, where the loan officer told them they could get a lower rate and lower payments. In October 2002, Wells made them a $104,000 loan that automatically refunded portions of the credit insurance but included a new single-premium life insurance policy for $2,560 that they did not want but were told was required. Without refunding any of the previous loan's fees, Wells financed in another $7,300 of their fees. 'A' rates had since fallen to 6.2%, but Wells not only broke their promise to lower the rate but increased it to 13.0%.

When they started hearing about neighbors refinancing to rates of 6%, they told Wells they were going to refinance with their credit union. Only then did the loan officer tell James and Doris that their loan had a five-year prepayment penalty for $10,000 (in reality, state law limited the penalty to a maximum of $5,000), but it still had the intended effect of discouraging them from refinancing.

When lenders claim they have to charge more because of higher credit risk, I would like you to keep in mind the experience of a couple from Minnesota who received a refinancing from Wells Fargo Financial. Kathleen and Thomas have owned their home since 1971, and their previous mortgage had a 7.8% interest rate. They have always had an excellent credit record; Thomas, who is the primary wage-earner, had 'A' quality credit scores last year of 682, 731, and 680.

In August 2002, Kathleen and Thomas received an unsolicited live check in the mail from Wells Fargo for a little over $1,000. After cashing the check, which resulted in a very high rate loan, they began receiving calls from Wells Fargo Financial offering more money and urging them to consolidate debts. At the time, Kathleen and Thomas did not know that there was any difference between Wells Fargo Bank and Wells Fargo Financial, which is the company's primary subprime lending institution. Since they had been wanting to pay off some bills and buy new windows for the house, they started talking to Wells Fargo Financial about a debt consolidation.

The Wells Fargo loan officer came out to their house and told them that they could get a 6% interest rate and would close in ten days. A few weeks later, another Wells representative came out to their house. He said that because of their credit and debts, their interest rate would actually be closer to 8%. He said that he would see if he could get them a better rate.

After another couple weeks, Kathleen and Thomas went to the Wells office for the closing in September 2002. Once there, they found out that their interest rate would actually be 10.0% – at a time when 'A' rates were 6.0%. When they asked about why the interest rate was so high, the Wells representative said it was because of their credit. Despite the high rate, Wells financed their standard (at the time) seven "discount points" – stripping away close to $8,000 of their home's equity – into the $112,000 loan. Kathleen and Thomas thought about not taking out the loan, but they had been expecting to close earlier that month and so hadn't paid the bills that the refinancing was paying off, and they felt that they had no choice.

Last June, ACORN Housing Corporation helped Thomas and Kathleen refinance with another lender into a 5.3% interest rate, lowering their monthly payments by over $400.

These are just two stories among tens of thousands. Following the trail that begins with these stories has led us to the conclusion that these practices reveal systematic problems in the subprime market. Costs in this market are hidden to borrowers, and this allows predatory lenders to take advantage of people. Both large and small players in the industry have participated in this—it is not just a problem of a few "fly-by-night" operators. When large companies like Ameriquest and Household Financial are forced into settlements that make them change their lending practices, we know this is a widespread problem. The widespread nature of this problem has forced states to pass laws against predatory lending and has led state attorney generals and banking officials to act against violators.

Unfortunately, too many loan features that are totally legal are profoundly anticompetitive and nontransparent. These features prevent borrowers from knowing whether they are getting credit on fair terms. One of the most important, high financed fees, are easy to hide, strip equity from borrowers, and reward lenders and brokers for the number of transactions they complete rather than how many performing loans they set up. The fact that these fees are up-front gives lenders an incentive to repeatedly turn loans over, also known as "flipping." These fees, which are often more than 10% of subprime loans, do permanent damage to borrowers and their communities by taking massive amounts of equity from them. Financed fees are much more prevalent in the subprime market than among prime loans, and provide little or no benefit to consumers. In the prime market, for example, discount points paid up front help lower the interest rate on a loan. In the subprime market, where they are invariable financed into the loan, they often only add to the interest rate, while immediately stripping equity from the home.

Another predatory feature in the subprime market is the widespread use of prepayment penalties. Like financed fees, these penalties are easy to hide in the blizzard of paperwork that accompanies a loan. Prepayment penalties trap people in loans and cost them thousands of dollars if they try to refinance out of the loan. While such penalties are uncommon in the prime market, they are a huge presence among subprime loans.

Substantial yield spread premiums give an incentive to brokers to charge higher interest rates to borrowers. Essentially kickbacks from lenders to brokers for putting people in higher interest rates, they are a main reason so many minority borrowers are charged higher rates than their credit would warrant, a problem I explore below. Yield spread premiums reward brokers for how much money they can take out of borrowers, rather than giving people credit at a fair price. This is another feature not seen in the prime market; where it is easy to determine the cost of a loan based on credit scores. Again, the lack of a clear and transparent market among subprime loans opens the door to abuses by unscrupulous lenders.

It is practices like these that need to be regulated, so that there is a more even playing field and a clear and competitive market can emerge

Stories of abuse are too common in the subprime market. While not all subprime loans are predatory, just about all predatory loans are subprime. Subprime loans are properly given to people who are unable to obtain a conventional prime loan at the standard bank rate because of credit problems or other circumstances. They are properly given when people actually need a mortgage loan, not when a lender can talk someone into a loan they may not need, just so the lender can make more money. Rates and fees on the loan should reasonably reflect the risk presented by the borrower, not how much the lender can get away with charging.

Such loans are predatory when loan terms are deceptive and abusive, or when people who qualify for prime loans are steered into higher-cost loans. Both of these practices are concentrated among the most vulnerable populations, among minority, low-income, and elderly homeowners. It is discrimination in the subprime market to which I now turn.

Discrimination in the Subprime Market: Separate and Unequal

The annual study we released earlier this month, “Separate and Unequal: Predatory Lending in America”, shows that minority homeowners continue to be much more likely to receive a subprime loan than white homeowners. Among refinances—which accounts for nearly two-thirds of subprime loans—African-American homeowners were four times more likely to receive subprime loans, while Latinos were two and a half times more likely. This disparity was true even among borrowers of the same income level. 27.8% of the refinance loans received by middle-income African-Americans were subprime, as were 19.4% of the loans received by Latinos at this income level. Meanwhile, only 7.6% of the loans given to middle-income white homeowners were subprime.

These differences have huge effects on families' finances. A loan with a higher interest rate can cost a family tens or even hundreds of thousands of dollars over the life of the loan. What makes this particularly egregious is that a large percentage of these borrowers actually qualify for a prime loan. A recent report in *Inside B & C Lending* indicates nearly 83% of subprime loans went to customers with A- or better credit ratings.[1]

The Chairman of Fannie Mae, Franklin Raines, has estimated that as many as half of all borrowers in subprime loans could have qualified for a lower cost conventional mortgage, which could save the borrower more than $200,000 over the life of a thirty year loan.[2]

Freddie Mac's estimate, while somewhat lower, was still extremely high—they found that as many as 35% of subprime borrowers could have qualified for prime loans.[3] The CEO of HSBC, when discussing plans to purchase Household International, said that 63% of the subprime lender's customers had prime credit.[4] Huge numbers of homeowners with good credit, particularly people of color, are being steered towards subprime loans. This is itself a form of predatory lending. It also increases the risk of foreclosure, as borrowers are often paying hundreds of dollars more each month on their loan.

This brings us to another point. There has been a great deal of attention paid to the high foreclosure rate nationally. The increase in this rate—at 1.2%, it is the highest it has been since the Mortgage Bankers Association started keeping track of the figures in 1972—is driven by foreclosures in the subprime market. While only 1 in 100 prime loans leads to foreclosures, the rate is 8%--or 1 in 12—in the subprime market. The rate is even higher in certain states: according to the Mortgage Bankers Association, for example, nearly 16 percent of Ohio's subprime loans were in foreclosure in 2003.[5] In Pittsburgh, foreclosures have increased every year since 1997, and three times more than they were during the steel mill closings in the 1980s.[6] Subprime foreclosures have increased dramatically since 1990, far exceeding the increase in subprime originations. These foreclosures damage not only families, but the communities they live in as well, leaving empty homes and harming efforts to rebuild our neighborhoods.

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[1] "FICO Scores Hold the Line but Deep MI Drops in 4th Quarter" *Inside B & C Credit* Vol. 9 Issue 4 p. 9 (February 23, 2004)
[2] Business Wire, "Fannie Mae has Played Critical Role in Expansion of Minority Homeownership Over Past Decade," March 2, 2000.
[3] "Automated Underwriting," Freddie Mac, September 1996.
[4] "HSBC: Why the British Are Coming: Chairman John Bond Explains Why the Usually Cautious British Bank Paid a 30% Premium to Acquire American Lender Household," *Business Week Online*, November 18, 2002, Daily Briefing.
[5] "Pace Quickens on Foreclosures in Ohio," *The Columbus Dispatch*, March 25, 2003.
[6] "County Has Processed More than 4,000 Filings, a Record Year for Foreclosures" *Pittsburgh Post-Gazette*, December 1, 2003.

Some in the industry may claim that these foreclosure rates are to be expected, or in fact justify the higher rates on subprime loans – but when you look closely this argument is often backward. It's a cycle of bad loans that's an important part of what drives the foreclosures. These loans are made to people who cannot afford them, at high rates that increase the payments to unaffordable levels. Loan amounts are inflated by high fees, and borrowers' options are curtailed by huge prepayment penalties. Payments grow larger and larger because of multiple refinancings, with fees added every time. Discrimination in the subprime market—with minorities and others being steered into high-cost loans—not only takes money out of our communities, but contributes to the increasing foreclosure rate that is devastating our communities as well.

Next Steps: How to Create a More Effective Subprime Market

The experience of ACORN Housing has been that even people with impaired credit do well when they have affordable loans. Through a combination of innovative loan products developed in conjunction with banks and the housing counseling we provide, low-income borrowers have been put in homes and stayed there, with foreclosure rates well below the rates in the subprime market, even though many of our clients have credit ratings of A- or below.

The success of non-profits like ACORN Housing, as well as of that of many responsible financial institutions, shows that there is no excuse for the abuses in the subprime marketplace. There is no reason for rampant predatory lending. There is no reason for huge numbers of foreclosures. And most of all, there is no reason to accept industry's claims that fair regulation of the subprime market will lead to lenders leaving the subprime market.

Industry defenders have attempted to create a sense of crisis about state predatory lending laws. Apparently, their thinking is that if the subprime market is going to be adequately regulated, they want no part of it. They have tried to back this up with bogus claims of "capital flight" from states that have passed predatory lending laws. Their claims of ruin make Chicken Little look like an optimist. The truth is there is no such crisis. The real crisis continues to be that homeowners are being ripped off every day.

The example of North Carolina, the first state to adopt a predatory lending law, is instructive here. A June 2003 study by the Center for Community Capitalism at the University of North Carolina concluded the state's law reduced the incidence of loans with predatory terms, while not restricting access to capital. The report showed that subprime refinances that contained prepayment penalties that exceed three years, balloon payments, or loan-to-value ratios of 110% or more—all of which are features of predatory loans—declined dramatically. For example, there was a 72% drop in subprime loans with prepayment penalties of three years or longer. The law was having its intended effect of cracking down on predatory loans.

At the same time, loans to borrowers with substantially impaired credit increased 31%, and the interest rates increased less than the national average. The number of subprime home purchase loans continued to increase, and North Carolina remains the sixth most active state for subprime lending. But perhaps most interestingly, the number of subprime loans to people with credit scores above 660—those who could most easily qualify for prime loans—declined by 28%, while loans by primarily prime lenders increased by 40%. This suggests that people—often African-Americans and Latinos—who were being steered to subprime loans despite good credit are now getting prime loans, thereby saving thousands of dollars and reducing the risk of foreclosure.[7]

Other states have followed North Carolina's lead, passing strong state laws that help ensure a fairer subprime market with less predatory lending. These laws, like North Carolina's have been crafted to deter exorbitant fees and other hidden ways of stripping equity, while encouraging costs to be openly displayed through interest rates. They are succeeding, and as state legislators, bankers, and community activists discover ways to improve these laws, they are being revised and often strengthened. It is this working of the states' "laboratories of democracy" that needs to continue, and not be cut off by hasty preemption of state laws by federal statute. More time for these laws to prove themselves is needed to assure a more effective federal law down the road.

States have not acted hastily or thoughtlessly in passing laws against predatory lending. They have acted because they saw their citizens being taken advantage of. It is these laws that have led many lenders to clean up their act. But many lenders continue to take advantage of people, and we need to allow states to continue to protect their citizens. This is especially true as the subprime market is dynamic, and new products are being developed all the time. States, which can act faster than the federal government, need to be able to develop new rules to protect consumers. The subprime market is also geographically diverse, with different procedures being followed in different areas. States need the flexibility to deal with these differences. For all of these reasons, federal laws that preempt states' ability to deal with predatory lending are harmful to consumers. Similarly, regulators' moves to preempt state laws, such as recent action by the Office of the Comptroller of the Currency, is ill-advised and needs to be reversed.

It bears repeating: the crisis in the subprime market is too much discrimination and too much predatory lending, not too much regulation by the states. This must remain our focus, and claims of a crisis of subprime lending in states with strong laws must be seen for what they are: a smokescreen behind which opponents of effective regulation are hiding.

There are other steps that the federal government can do to end predatory lending and make sure the subprime market serves those who really need it, rather than all those who unscrupulous lenders can steer into it. Perhaps most importantly, the Community Reinvestment Act (CRA) needs to be strengthened. Too many banks are getting satisfactory or outstanding ratings, even when they have instances of predatory lending. When 98% of banks are getting passing marks, yet our communities continue to be undeserved, something is wrong. A practice of predatory lending should disqualify a bank from such ratings. Regulators must also look not only at the quantity of lending in low-

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[7] *The Impact of North Carolina's Anti-Predatory Lending Law: A Descriptive Assessment*, The Center for Community Capitalism, University of North Carolina, June 2003.

and moderate-income communities, but the quality of these loans as well. Banks should be given more credit for prime loans in our communities than subprime ones. Finally, since so much lending occurs in non-deposit taking affiliates, these must be required to be included in CRA assessments as well. By strengthening the CRA, we can help create a flourishing market of legitimate and fairly price loans in underserved communities, which will help drive out predatory lenders.

No longer able to deny the existence of predatory lending, defenders of the banking industry have tried to highlight the importance of education in preventing predatory lending. I know about the importance of counseling and education of homeowners. I do it every day. But as a response to predatory lending, it is woefully inadequate. The response to an epidemic is not more education; it is strong action by authorities. The response to a crime wave is not more counseling; it is bringing the perpetrators to justice. We have an epidemic of predatory lending on our hands, and even though many of the features are legal, the effects are criminal.

Our views are shared by the US General Accounting Office, which recently released a report entitled "Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending."[8] Some of the major findings include:

- Consumer education is unlikely to provide less sophisticated consumers with enough information to properly assess whether a loan contains abusive terms.

- The role of mortgage counseling in preventing predatory lending is likely to be limited.

- Disclosures made during the mortgage loan process may be of limited usefulness in reducing the incidence of predatory lending practices.

- While the great majority of mortgage brokers are honest, some play a significant role in perpetrating predatory lending.

Our sister organization ACORN has taken the lead in taking on predatory lenders, individually and through legislative action. ACORN Housing has been a leader in helping low-income families get good loans so they can avoid predatory lenders. We know the importance of subprime loans. We know there is a need for access to capital for people with credit problems. But this can never become an excuse to allow abuses in the subprime marketplace. We need to eliminate discrimination and abuses from this market so that every American can share in the dream of homeownership. This will require struggle, but we cannot shy from this battle. As the great abolitionist Frederick Douglass once said, “If there is no struggle, there is no progress…Power concedes nothing without demand. It never did, and it never will.” Thank you for the opportunity to address you today and I am happy to answer any questions you may have for me.

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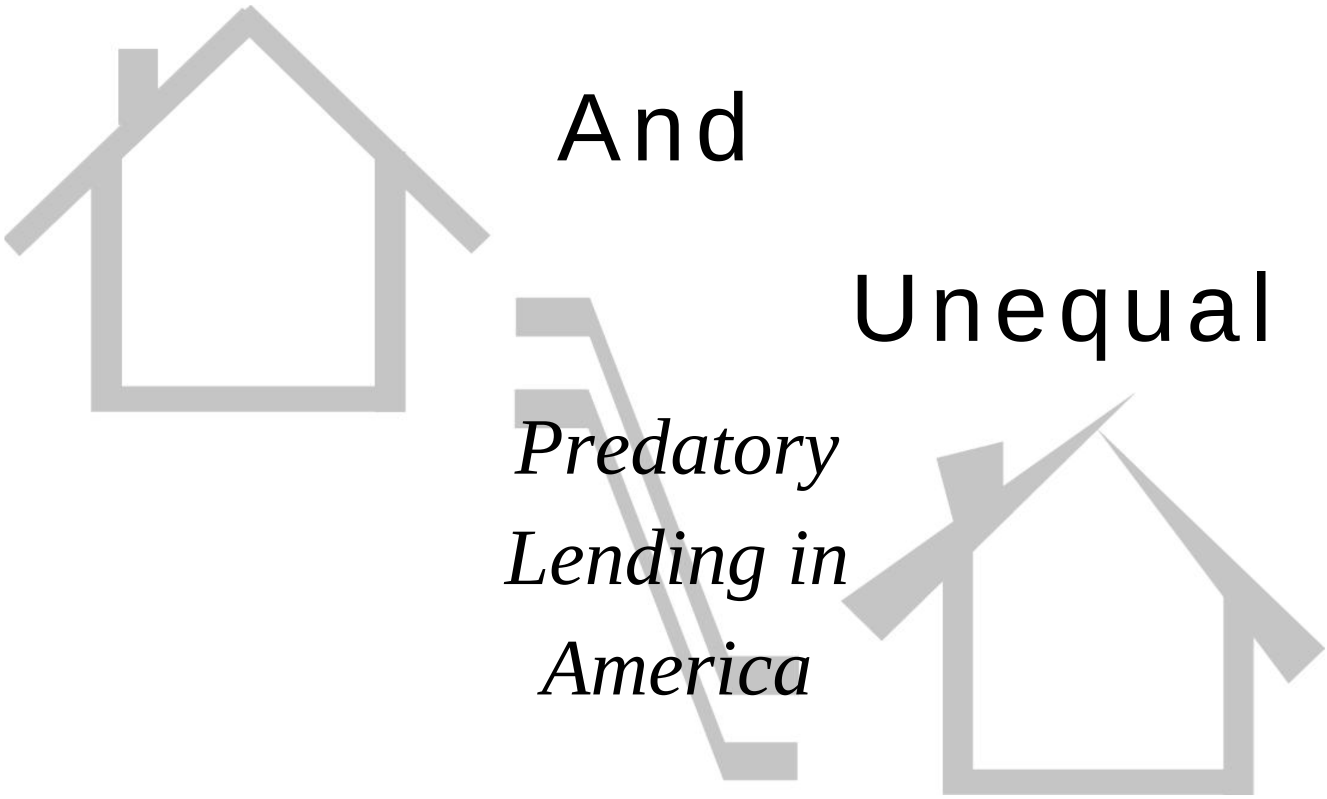
[8] *Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending”* General Accounting Office, January 2004.

Separate And Unequal



Predatory Lending in America

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ACORN, the Association of Community Organizations for Reform Now, is the nation's largest community organization of low- and moderate-income families, with over 150,000 member families organized into 700 neighborhood chapters in 60 cities across the country. Since 1970 ACORN has taken action and won victories on issues of concern to our members. ACORN's priorities include: better housing for first time homebuyers and tenants, living wages for low-wage workers, more investment in our communities from banks and governments, and better public schools. ACORN achieves these goals by building community organizations that have the power to win changes -- through direct action, negotiation, legislation, and voter participation. ACORN's website is at www.acorn.org.

In 1986, ACORN Housing originated from neighborhood-based campaigns conducted by ACORN, a national organization formed by low-income members to improve neglected, impoverished communities. ACORN Housing creates affordable housing opportunities by acquiring and rehabilitating affordable housing units, developing single-family homes, providing homeownership counseling, coordinating sweat-equity programs, creating groundbreaking mortgage financing programs, and securing homebuyer subsidies. Since its inception, ACORN Housing's homeownership and counseling program has grown to 32 cities and provides free mortgage counseling to more individuals than any other organization in the country. ACORN Housing is also the national leader in assisting victims of predatory lending by providing refinancing at improved terms, through loan modification, and by providing outreach that teaches individuals to identify and avoid predatory loans. ACORN Housing's website is www.acornhousing.org.

ACORN Fair Housing Organization

The ACORN Fair Housing Organization fights housing discrimination by conducting research, providing training, and conducting outreach and education efforts on the Federal Fair Housing Act. In the past few years ACORN Fair Housing has been working with community organizations to provide outreach and education on predatory lending and assisting such victims file complaints under the Federal Fair Housing Act. Other areas of work include insurance and mortgage redlining, discrimination based on source of income, and equal housing opportunities based on quality of housing that is free from environmental health hazards. ACORN Fair Housing is a project of the American Institute for Social Justice.

Summary of Findings

Refinance Lending:

Subprime lenders continue to originate growing numbers of refinance loans[1] and subprime lending has grown faster than prime lending in the past year. In 2002, subprime lenders originated 933,025 refinance loans, an increase of 33.2% from 700,638 refinance loans in 2001. Prime lenders originated 8,062,713 refinance loans in 2002, an increase of 24.7% from 2001 when they originated 6,073,987 refinance loans.

Subprime lenders make up a large portion of refinance loans made to minorities. In 2002, subprime lenders originated 27.6%, or more than one out of four, refinance loans made to African-American homeowners and 17.1%, or almost one out of six, refinances to Latino homeowners, compared to only 6.7%, or one out of seventeen, refinance loans to white homeowners.

Minority homeowners continue to be much more likely to receive a subprime refinance loan than are white homeowners. African-Americans who refinanced were 4.1 times more likely to receive a subprime loan than white homeowners, while Latinos were 2.5 times more likely to receive a subprime loan.

Racial disparities remain even among homeowners of the same income level. Middle-income minority homeowners faced a greater disparity than other income levels. 27.8% of the refinance loans received by middle-income African-American homeowners were from subprime lenders as were 19.4% of the refinances to middle-income Latino homeowners. In contrast, only 7.6% of the refinance loans to white homeowners were from subprime lenders.

Low and moderate income borrowers are more likely to receive a subprime loan than upper-income borrowers. In 2002, 19.07% or one out of every five refinance loans received by low-income homeowners of all races were from subprime lenders, as were 15.3% or one out of every six refinances to moderate-income homeowners. In contrast, only 7.4% or one out of every fourteen refinances to upper-income homeowners were from subprime lenders.

The concentration of subprime refinance loans is greatest to lower-income minority homeowners. Subprime lenders originated one out of three refinance loans to low-income and moderate-income African-Americans in 2002 (38.5% to low-income and 33.2% to moderate-income African Americans) and one out of every five refinance

[1] Includes owner-occupied conventional refinance loan originations. Loan by manufactured housing lenders are excluded from this data. See methodology for more detailed explanation.

loans to low and moderate-income Latino homeowners (19.9% to low-income and 20.7% to moderate-income Latinos).

Subprime lenders also target lower-income white homeowners.

Subprime lenders made 11.2% or one out of nine refinance loans to low-income white homeowners and 9.7% or one out of ten refinance loans to moderate-income white homeowners. In contrast, subprime lenders made only 5.2% or one out of 20 of the refinance loans made to upper-income white homeowners.

There is a greater concentration of subprime loans in minority neighborhoods than mixed-race or majority white neighborhoods. Subprime lenders represent nearly one-third, 31.1%, of the refinance loans made in neighborhoods where minorities represent 80-100% of the population and nearly one out of five, 18.8%, of refinance loans made in neighborhoods where minorities are 50-80% of the population. In contrast, subprime loans are only one out of eight loans, 13%, in neighborhoods with 50-80% white population and one out of twelve loans, 8.2%, made in neighborhoods with 80-100% white population. In comparative terms, homeowners who live in neighborhoods where minorities are 80-100% of the population are 3.8 times more likely to receive a subprime loan when refinancing than homeowners who live in neighborhoods where minorities are less than 20% of the population.

Minorities receive a larger share of subprime refinance loans than of prime refinance loans. In 2002, African-Americans received 8.9% of the refinance loans originated by subprime lenders, a 3.3 times larger share than their 2.7% share of refinance loans made by prime lenders. Latinos received 8.2% of the loans originated by subprime lenders, 1.8 times more than their 4.6% share of refinance loans made by prime lenders.

Home Purchase Lending:

Subprime home purchase lending has increased at a faster rate than prime lending over the past ten years, and its growth has accelerated in recent years. In conventional home purchase lending, subprime lenders originated 427,878 loans in 2002, a 44% increase from 297,189 home purchase loans in 2001. Prime lenders originated 3,736,044 conventional home purchase loans in 2002 compared to 3,023,635 loans in 2001, a smaller increase of 23.6%.

Subprime lenders represent a large portion of the home purchase loans made to minority borrowers in 2002. In 2002, 28% or more than one out of four home purchase loans received by African-Americans were from subprime lenders. 19.6% or almost one out of five home purchase loans received by Latinos were from subprime lenders. In contrast, only 7.8% or one out of nine home purchase loans received by whites were from subprime lenders.

Minority homebuyers are more likely to receive a subprime home purchase loan than white homebuyers. African-American homebuyers were 3.6 times more likely to receive a subprime home purchase loan than whites while Latinos were 2.5 times more likely to receive the subprime loan**.**

The racial disparity remains even among borrowers of the same income level. Upper-income African-Americans were 2.8 times more likely than upper-income whites to receive a subprime loan when purchasing a home. Upper-income Latinos were 2.8 times more likely than upper-income whites to receive a subprime loan when purchasing a home.   Middle-income African-Americans were 3.7 times more likely to receive a subprime loan than middle-income whites while middle-income Latinos were 2.9 times more likely. Moderate-income African-Americans were3.7 times more likely to receive a subprime loan than moderate-income whites while moderate-income Latinos were 2.1 times more likely than moderate-income whites. Low-income African-Americas were 3.9 more likely to receive a subprime home purchase loan than low-income whites while low-income Latinos were 1.4 times more likely.

There is some income disparity in share of purchase loans made by subprime lenders, but it is not very great, and it is less than the disparity in subprime refinance lending. In2002, 10.4% of the loans received by low-income homebuyers were from subprime lenders, about one out of ten loans. 11.5% of the loans received by moderate-income homebuyers were from subprime lenders, about one out of nine loans. In comparison, only 8.9% of loans made to upper-income homebuyers were from subprime lenders in 2002, or about one in eleven loans.

There is a greater concentration of subprime home purchase loans in minority neighborhoods than white neighborhoods. In neighborhoods where minorities consist of at least 80% of the population, one out of five home purchase loans, 24.3%, were from subprime lenders. In neighborhoods with 50-80% minority population, at least one out of six loans, 18.5%, were from subprime lenders. In comparison, 8.0% of home purchase loans in majority white neighborhoods, with less than 20% minority population, were from subprime lenders.

Among Latino borrowers the concentration of subprime loans is greatest among moderate-income and middle-income homebuyers. Low, moderate and middle income African-Americans receive subprime loans in similar proportions. 29.1% of home purchase loans to low-income African-Americans were from subprime lenders, as were 30.8% of the home purchase loans to moderate-income African-Americans and 30.2% of the loans to middle-income African-Americans. 24% of the home purchase loans made to middle-income Latinos were from subprime lenders, as were 17.8% of home purchase loans to moderate-income Latinos and 10.7% of the loans to low-income Latinos.

Minorities receive a larger share of subprime purchase loans than of prime purchase loans. In 2002, African-Americans received 12.4% of the conventional home purchase loans originated by subprime lenders, 3.4 times greater than their 3.7% share of the home purchase loans made by prime lenders. Latinos received 15.1% of the home purchase loans made by subprime lenders, a 2.1 times greater share than their 7.1% share of conventional home purchase loans made by prime lenders.

Introduction

An African-American couple named James and Doris bought a home through the GI bill (after James had served in the Marines for twenty-five years) in 1994 with payments of $540 and an interest rate of 8.5%, which was an 'A' rate at the time. Wells Fargo Financial first contacted them by sending live checks in the mail, and they cashed one, which resulted in a very high-interest rate loan. Then Wells began pushing them to consolidate debts into their mortgage, promising lower monthly payments. In December 2001, Wells gave them a 9-year mortgage that the loan officer never told them included $10,700 in Wells' own financed fees – over 11% of the amount financed (compared to a typical 1% charged by banks). James and Doris were already adequately insured, but Wells told them it was required to finance in single-premium credit life and disability insurance policies, which stripped away another $6,400. While 'A' rates had since fallen to 7.2% and despite all the discount points, Wells put James and Doris into an interest rate of 11.4%. The financed fees, credit insurance, and five-year prepayment penalty pushed them well over the house's appraised value of $90,000, preventing them from refinancing out of the loan. In addition, the loan officer told them only after closing that their new higher monthly payments of $1,490, unlike their previous mortgage, would not cover taxes and insurance, which cost them an extra $130 a month.

The much higher mortgage payments eventually caused James and Doris to fall behind, and they went back to Wells Fargo Financial, where the loan officer told them they could get a lower rate and lower payments. In October 2002, Wells made them a $104,000 loan that automatically refunded portions of the credit insurance but included a new single-premium life insurance policy for $2,560 that they did not want but were told was required. Without refunding any of the previous loan's fees, Wells financed in another $7,300 of their fees. 'A' rates had since fallen to 6.2%, but Wells not only broke their promise to lower the rate but increased it to 13.0%. When they started hearing about neighbors refinancing to rates of 6%, they told Wells they were going to refinance with their credit union; only then did the loan officer tell James and Doris that their loan had a five-year prepayment penalty for $10,000 (in reality, state law limited the penalty to $5,000, but it still had the intended effect of discouraging them from refinancing.

Aurora and Innocente bought a two-family home with some relatives in 1985. When that other family later moved out, Aurora and Innocente had taken out a second mortgage with Wells Fargo Financial to pay them off. In 2002 they decided to pay off some bills in a debt consolidation and went back to Wells. All the discussions about their loan were in Spanish, but all the paperwork was in English, which Aurora and Innocente do not speak. The loan officer told them the loan amount would be $168,000 and no penalty would be assessed for refinancing early; no points or fees were ever mentioned. In fact, Wells gave them a $188,000 loan in February 2002 that financed in $19,600 of Wells' own fees. At a time when 'A' rates were 7.0%, Wells gave Aurora and Innocente a rate of 8.9% (in June 2003, they had 'A'-level credit scores despite Wells' false reporting of late payments to the credit bureaus). The earlier second mortgage Wells had given them was difficult to afford, and now the new monthly payments of $1,500 take 56% of their monthly income – 66% when taxes and insurance are factored in. On top of all the origination fees, Aurora and Innocente only realized they had to pay a prepayment penalty of six months' interest on 80% of the amount paid off – $6,500 – when they refinanced with another lender. Aurora has been very upset to learn all of the extra costs they were charged, and the anger and worrying has caused health problems.

The above families are just two of the millions of unsuspecting homeowners and homebuyers who have been robbed by predatory lenders – mortgage and finance companies that make loans with high interest rates, exorbitant fees, and other harmful terms, often through fraudulent and deceptive methods. Elderly homeowners, communities of color, and low-income neighborhoods are the most severely impacted by these practices.

Despite increased awareness of the issue and some progress over the last year in combating the problem, predatory lending has continued, as these modern day loan sharks sink their teeth into new prey every day. In 2002, for the ninth consecutive year, home prices nationally rose at a greater rate than general inflation, raising the incentive for predatory lenders to go after the greater amount of equity that can be taken.[2]

Nationally, the number of subprime loans has skyrocketed since the early 1990s. In 1993, just over 100,000 subprime refinance and home purchase loans were originated, compared to 1.36 million subprime loans in 2002. The proportion of subprime loans compared to all home loans increased slightly from 2001 to 2002. Some industry analysts are projecting that subprime loan volume will increase again through 2004.[3]

The rise in subprime and predatory lending has been most dramatic in minority communities. Subprime lenders account for half, 51 percent, of all refinance loans made in predominantly black neighborhoods, compared to just 9 percent of the refinance loans made in predominantly white neighborhoods.[4] Subprime lending, with its higher prices and attendant abuses, is becoming the dominant form of lending in minority communities. But while minority communities suffer from an extreme concentration of higher cost, harmful loans, the problem should not be viewed as one that only affects minorities, since a solid majority of borrowers in subprime loans – and likewise the majority of predatory lending victims – are white.

While not all subprime lenders are predatory, just about all predatory loans are subprime, and the subprime industry is a fertile breeding ground for predatory practices. Subprime loans are properly given to people who are unable to obtain a conventional prime loan at the standard bank rate because of credit problems or other circumstances. It is appropriate for such loans to have higher interest rates to compensate for the potentially greater risk that these borrowers represent, and such risk-based pricing can fulfill an important market need. Predatory lending occurs when loan terms or conditions become abusive or when borrowers who should qualify for credit on better terms are targeted instead for higher cost loans.

Fannie Mae has estimated that as many as half of all borrowers in subprime loans could have instead qualified for a lower cost mortgage.[5] Freddie Mac suggested a somewhat lower, but still extremely large figure – that as many as 35 percent of borrowers who obtained mortgages in the subprime market could have qualified for a prime loan.[6] In late 2002, a senior HSBC executive acknowledged after the bank's purchase of major subprime lender Household International was

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[2] *The State of the Nation's Housing: 2002*, Harvard University Joint Center for Housing Studies, p. 6.
[3] "Subprime Share of Mortgage Volume to Rise," *MortgageDaily.com*, March 1, 2004.
[4] *Curbing Predatory Home Mortgage Lending: A Joint Report*, June 2000, U.S. Department of Housing and Development and U.S. Department of Treasury, p. 47.
[5] "Financial Services in Distressed Communities," Fannie Mae Foundation, August 2001.
[6] "Automated Underwriting," Freddie Mac, September 1996.

announced that 46% of Household's real estate-backed loans were to borrowers with 'A' credit.[7] The financial difference is enormous: borrowers can easily pay $200,000 more in payments on a 30-year subprime loan.[8]

Too often higher rate subprime loans are also loaded with abusive features – high fees, large and extended prepayment penalties, insurance policies or expensive membership plans financed into their loans – which cost borrowers even more of their equity. When a borrower with good credit loses substantial equity when being refinanced into an excessive rate, they are frequently left without enough equity to refinance with another lender into a more reasonable rate. Borrowers are also often trapped in loans when lenders or servicers damage their credit scores by falsely reporting late payments and inflated loan amounts; sometimes the simple fact of taking out a subprime loan or a home-equity line of credit – regardless of a borrower's repayment record – can damage a borrower's credit score.[9]

Those borrowers who are not in a position to qualify for an 'A' loan are also routinely overcharged in the subprime market, with rates and fees that reflect what a lender or broker thinks they can get away with, rather than any careful assessment of the actual credit risk. These loans too are often loaded with additional abusive features like financed credit insurance, hidden balloon payments, and mandatory arbitration clauses. Such borrowers often find themselves trapped in high rate loans even once they have improved their credit. Many borrowers are also repeatedly solicited, and repeatedly refinanced into high rate loans, losing equity through every transaction.

Unfortunately, these problems pervade too much of the subprime industry. Just in the past year and a half, two of the largest subprime mortgage lenders – Household International and The Associates (which are now owned by HSBC and Citigroup, respectively) – announced respective settlements of $485 million and $240 million to resolve complaints about their lending practices. While these are the largest settlements in American history for any type of consumer complaints, enforcement efforts after the fact are of little value to a family that has already lost their home and generally return to borrowers only a fraction of what they lost. Abuses are also widespread among unscrupulous mortgage brokers, who convince consumers they are acting to secure the lowest-priced loan when they are actually taking kickbacks from lenders to jack up interest rates, in addition to their standard origination fees.[10] The most detailed study to date of yield-spread premiums, which was conducted on car loans, indicate that these charges force minority and female borrowers, controlling for other factors, to pay much higher costs; given the larger principal amounts, the damage on home loans would be expected to be much greater.[11]

Predatory lending practices are even more insidious because they specifically target members of our society who can least afford to be stripped of their equity or life savings, and have the

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[7] "A Duel Turned Into a Deal," *South China Morning Post*, Nov. 19, 2002, p. 1.
[8] By comparison, Freddie Mac's February 26, 2004, national survey of 'A' lenders indicates an average interest rate of 5.6% and average fees and points of 0.7% of the loan amount See http://www.freddiemac.com/learn/cgi-bin/dLink.cgi?jp=/PMMS/display/PMMSOutputYr.jsp&ENV=PROD.
[9] "A Home Loan That Hurts Your Credit Score," *Dow Jones Newswires*, by Kaja Whitehouse, December 5, 2003.
[10] See testimony of Harvard Law School Prof. Howell E. Jackson to the Senate Banking Committee hearing on "Predatory Mortgage Lending Practices: Abusive Uses of Yield Spread Premiums," January 8, 2002.
[11] "Study of Loan Fees Shows All Borrowers Not Equal," *Washington Post*, by Kenneth Harney, July 19, 2003, p. F1.

fewest resources to fight back when they have been cheated. Subprime lending is disproportionately concentrated among minority, low-income, and elderly homeowners.[12] Over 1.8 million lowest-income senior citizen homeowners pay more than half their incomes for housing, leaving them with little room to make increased mortgage payments,[13] and most of the increase since 1997 in housing affordability problems, which are most common among low-income households, has been among homeowners.[14]

Many in the lending industry argue that the disproportionate concentration of subprime loans among low-income and minority borrowers is only a reflection of the greater risk that these borrowers represent based on their lower credit ratings. However, Fannie Mae has stated that the racial and economic disparities in subprime lending cannot be justified by credit quality alone. According to Fannie, loans to lower-income customers perform at similar levels as loans to upper-income customers; indeed, research suggests that mortgages to low- and moderate-income borrowers perform better than other mortgages when the lower prepayment risk is taken into account.[15] In addition, the level of disparity presented in studies which showed that black households had more credit problems than white households was not even close to the levels of disparities seen in subprime lending.[16]

Predatory lending threatens to reverse the progress that has been made in increasing homeownership rates among minority and lower income families. Many in the subprime industry like to portray their primary role as helping families realize the American dream of homeownership. But the vast majority of subprime loans are refinances and home equity loans to existing homeowners, not purchase loans; in 2002, more than 65% of the reported home loans made by subprime lenders were for refinances, and an additional 6% were home-improvement loans. While it is important for homeowners to be able to use the equity in their homes to meet financial needs, predatory lenders bombard homeowners in many communities with refinance offers that lead to loans at high rates, with inflated fees, and other abusive terms.[17] By stripping equity, increasing indebtedness, and even costing families their homes, these practices cause homeowners to lose their equity, rather than use it for their benefit.

This, along with the data from Fannie Mae and Freddie Mac mentioned above, suggests that higher cost subprime loans are replacing rather than supplementing less expensive ‘A’ credit, with tremendous extra costs for borrowers who should be qualifying for, or previously were in, ‘A’ loans. When buyers who should be eligible for loans at good interest rates are instead steered towards subprime lenders, they end up paying hundreds of dollars more each month than they would with a prime loan, and the higher interest rates and added fees deprive these homeowners of

[12] "We think [predatory lending is] at epidemic proportions, particularly in low-income, elderly and minority communities." Craig Nickerson, vice president of community development lending, Freddie Mac, as quoted in “Campaign to Help Buyers Avoid Predatory Loans”, *Los Angeles Times*, by Lee Romney, July 18, 2001, Business p. 1.
[13] *The State of the Nation’s Housing: 2001*, Harvard University Joint Center for Housing Studies, pp. 26-27.
[14] *The State of the Nation’s Housing: 2002*, Harvard University Joint Center for Housing Studies, p. 26.
[15] “Performance of Low-Income and Minority Mortgages,” by Robert Van Order and Peter Zorn, in *Low-Income Homeownership: Examining the Unexamined Goal*, ed. Nicolas Retsinas and Eric Belsky, 2002, p. 324.
[16] “Financial Services in Distressed Communities,” Fannie Mae Foundation, August 2001.
[17] See the testimony of Iowa Attorney General Thomas Miller before the U.S. Senate Banking Committee on July 26, 2001 at http://banking.senate.gov/01_07hrg/072601/miller.htm.

a fair opportunity to build equity. In the worst cases, the high interest and fees are only the tip of a predatory lending iceberg in which the loan also contains harmful terms, and the combination of these factors greatly increase the likelihood of foreclosure. The prevalence of predatory lending abuses in the subprime market has been a major factor behind record-breaking foreclosure rates in recent years;[18] subprime mortgage delinquencies and foreclosures fell somewhat in 2003, but the foreclosure rate remained thirteen times higher than on prime loans.[19]

In addition, subprime purchase loans are the financing mechanism of choice for carrying out "property flipping" scams, which unfortunately have become all too common an occurrence in a number of cities. Property flipping involves the purchase of distressed properties at a negligible price, and then, after minimal cosmetic or even no repairs, the property is sold at prices far above their actual worth. The victims of property flipping are often unsuspecting low-income, minority first-time homebuyers.

The damage that predatory lending inflicts on our communities cannot be overestimated,[20] as homeownership provides the major source of wealth for low-income and minority families. In 2000, 62% of African-American household net wealth and 51% of Hispanic households' net wealth resided in their homes – compared to 31.0% for white households.[21] And even that data understate the importance of home equity, since most stocks and other non-home equity wealth is heavily concentrated at the top of all population groups; home equity represents 74.9% of the net wealth for Hispanics in the bottom two income quintiles (0-40%), and 78.7% of the net wealth for African-Americans in the second income quintile (20-40%).[22]

Rather than strengthening neighborhoods by providing needed credit based on this accumulated wealth, predatory lenders have contributed to the further deterioration of neighborhoods by stripping homeowners of their equity and overcharging those who can least afford it, leading to foreclosures and vacant houses. Many studies have shown a link between increased levels of subprime lending – where predatory lending practices are concentrated – and increased foreclosures.[23] In the context of America's increasing concentration of wealth at the very top – the richest 5% hold 57% of the country's wealth while the poorer half owns only 3%[24] – predatory lending abuses increasingly are negating the benefits of homeownership and entrenching economic divisions.

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[18] "2nd Quarter Foreclosure Rates Highest in 30 Years," *Washington Post*, by Sandra Fleishman, September 14, 2002, p. H1.
[19] "Improved Economy Cited as Mortgage Delinquencies and Foreclosures Fall," New York Times, by Dennis Hevesi, December 19, 2003, p. B10.
[20] U.S. Department of Justice Civil Rights Division economist estimates in a February 2003 study that predatory loans annually cost $9.5 billion, not counting foreclosure costs. See http://papers.ssrn.com/sol3/papers.cfm?abstract_id=338660.
[21] *Net Worth and Asset Ownership of Households: 1998 and 2000*, U.S. Census Bureau, May 2003, Table I, p. 15.
[22] *Net Worth and Asset Ownership of Households: 1998 and 2000*, U.S. Census Bureau, May 2003, Table H, p. 14.
[23] "Predatory Lending in South Central Pennsylvania," ACORN Fair Housing, December 2003; "Study of Mortgage Foreclosures and Subprime Lending in St. Clair County" [E. St. Louis, IL], East St. Louis Action Research Project, July 2003; "Unequal Burden in Baltimore," HUD, May 2000; "The Expanding Role of Subprime Lending in Ohio's Burgeoning Foreclosure Problem," Ohio Community Reinvestment Project, October 2002.
[24] *The State of the Nation's Housing: 2002*, Harvard University Joint Center for Housing Studies, p. 13.

The last few years have seen a growing recognition of the serious harm being caused by predatory lending, and federal and state regulators have begun to take modest yet significant steps against the abuses. The Office of Thrift Supervision moved forward in July 2003 with regulations that effectively restored consumer protection laws on late fees and prepayment penalties in about half the states. Despite some dire industry predictions, consumers in states with such protections have not seen their access to home loans restricted – only now fewer are trapped in excessive rates by large and extended prepayment penalties. In October 2002, the Federal Reserve used its regulatory authority under the federal Home Ownership Equity Protection Act (HOEPA) to announce two significant changes: counting single-premium credit insurance policies as a fee under the HOEPA test, and expanding HOEPA coverage to a few more first mortgages with very high rates. The Federal Reserve also began collecting annual percentage rates on most high-cost home loans in January 2004.

Unfortunately, federal regulators have taken other steps that are undermining the fight against predatory lending. As this study and other research indicate, subprime lenders have been so successful in targeting lower-income and minority communities in large part because banks and thrifts have long neglected those communities; households without adequate access to prime products are easy marks for predatory loans. Lack of access to prime loans has played a large role in the nearly 25% homeownership gap between white and minority households of four decades ago remaining virtually unchanged today (acknowledging that both percentages have increased over that time), with three-quarters of white households owning their own homes, compared to less than half of African-American and Latino families.[25] Although the federal Community Reinvestment Act (CRA) has provided the primary means to push banks to live up to their obligations to serve all communities, the regulators recently issued a joint proposed rule that would weaken the regulations that implement the CRA. In addition, the Office of the Comptroller of the Currency has moved forward with regulations to exempt national banks and their operating subsidiaries from state anti-predatory lending laws despite substantial evidence of predatory loans made, and abusive loan-pricing systems used, by institutions the OCC is responsible for regulating.

A few recent developments in the secondary mortgage market have benefited homeowners. Freddie Mac and Fannie Mae – building upon their earlier standards for purchasing of subprime loans that have been helpful in discouraging abusive terms like financed single-premium credit insurance – both recently announced that they are no longer buying subprime loans that contain mandatory arbitration clauses. These clauses are designed to prevent borrowers from taking lenders or brokers that have violated the law to court, instead shifting them over into an arbitration system that is stacked against their interests. In addition, the three major bond rating agencies – Fitch, Moody's, and Standard & Poor's – have all announced that they will continue rating subprime loans in all of the states that have passed anti-predatory lending laws, helping ensure a steady flow of capital to the subprime market in those states.

Elected officials continue to respond to the damage predatory loans inflict on families and communities they represent, with the New Mexico and New Jersey legislatures leading the way in 2003 in enacting effective anti-predatory lending laws. These measures establish a basic set of

[25] *The State of the Nation's Housing: 2002*, Harvard University Joint Center for Housing Studies, p. 16.

protections for borrowers on a defined set of high-cost home loans – safeguards that closely mirror earlier laws passed in North Carolina, Georgia, and New York.[26] While elements of the financial industry regularly make unsubstantiated claims about such laws cutting off access to credit, state anti-predatory lending laws are rapidly developing a solid track record of reducing the number of abusive loans without impinging on the availability of credit. After the North Carolina governor earlier announced that the state's 1999 law had saved homeowners $100 million in its first year, a UNC study found that the law caused a dramatic reduction in the number of loans with predatory terms while average subprime interest rates in the state rose less than the national average – indicating that the state's in-flow of capital has not been restricted.[27] In early 2003, secondary market institutions and consumer advocates reached a compromise on the contentious issue of assignee liability that was subsequently included in both the New Mexico and New Jersey laws, removing a major technical obstacle and completely addressing earlier problems that had been encountered with the Georgia law.

As more state anti-predatory lending laws lead to meaningful reforms in the pricing of subprime loans without producing negative side effects, predatory lenders seeking to preserve a status quo where homeowners can easily be exploited have ratcheted up pressure on Congress to preempt state consumer protection laws. Rep. Bob Ney (R-OH) has introduced an industry-supported preemption bill, HR 833, that would undermine enforcement of the limited existing federal law while hampering the efforts of housing counseling agencies that struggle daily to refinance homeowners out of predatory loans. Republican leaders on the House Financial Services Committee have already announced hearings in March 2004 that are designed to move the bill forward. In contrast, Sen. Paul Sarbanes (D-MD) – Ranking Democrat on the Senate Banking Committee – has introduced legislation, S. 1928, that closely tracks the protections of the successful state laws. The path Congress chooses will determine whether homeownership remains a viable path for large numbers of people of color and low- and moderate-income Americans to a basic level of financial security and stability.

[26] More modest anti-predatory lending laws were enacted in 2003 in South Carolina, Arkansas, and Illinois. Other laws with varying levels of protections have been enacted in California, Los Angeles, Oakland, and Washington, DC, although the Oakland and Los Angeles are currently stayed pending a legal appeal.
[27] *North Carolina's Subprime Home Loan Market After Predatory Lending Reform*, The Center for Responsible Lending, Durham, NC, August 13, 2002; The Impact of North Carolina's Anti-Predatory Lending Law: A Descriptive Assessment, University of North Carolina Center for Community Capitalism, June 2003. See also "Predatory loan crackdown won't ruin the business; City, state laws raise howls of protest, but experience suggests limited impact," *Craine's New York Business*, by Heike Wipperfurth, October 21, 2002, p. 4; "Surprisingly Strong Subprime Growth," Morgan Stanley, by Kenneth Posner and Athina Meehan, July 31, 2002.

Refinance Lending

More than 65% of the reported home loans made by subprime lenders in 2002 were refinances of existing loans, rather than for the purchase of a new home. Not surprisingly, a significant number of predatory lending practices are linked to refinances. Subprime loans are typically promoted as a way to consolidate debt, provide money for home improvements, or for household or personal needs, rather than being sought by borrowers as a way to lower their interest rates or lock in a fixed rate.

There are circumstances where refinancing to use the equity in one's home makes sense, but cash-out refinances are rife with potential for abuse by predatory lenders. Too often homeowners who have significant amounts of equity are convinced to refinance under conditions that leave them considerably worse off than they were before. In some cases, homeowners are sold refinance loans which produce just a few thousands dollars in cash at closing, but which refinance their existing mortgages at higher rates, with high fees, and often with abusive loan features which trap the borrower into the high cost loan. In other cases, homeowners roll debt that is not secured by their house-- such as medical bills, credit cards or car loans—into a mortgage which is secured by their family home. This may provide the homeowner with a short term reduction in total monthly obligations (although it can fails to accomplish even this because of the high interest rates and fees, or hidden costs, like taxes and insurance previously paid with the mortgage). In any case, such refinances increase the debt staked against the borrowers home, and the amount they must pay each month in order to keep it. There is mounting evidence that increased foreclosure rates across the country have a link to predatory lending.

Predatory lenders use refinancing as an opportunity to strip homeowners of their equity by financing thousands of dollars in unnecessary fees And they add insult to injury by including prepayment penalties in high- rate refinance loans, either trapping the borrower in the high rates, or forcing them to lose thousands of dollars of additional equity in order to escape. . More than two-thirds of subprime loans have prepayment penalties, compared to less than 2% of conventional prime loans.[28] It is not uncommon for subprime lenders to make loans at 12% to 14% interest rates with prepayment penalties lasting from three to five years that require the borrower to pay six months interest on the loan as a penalty for refinancing with another lender to get a lower interest rate. On a $100,000 loan at 11% interest, such a penalty would cost a borrower over $5,000.

[28] HUD-Treasury report on Predatory Lending, 2000 p. 90.

National Findings: Refinance Loans

Subprime lenders continue to originate growing numbers of refinance loans[29] and subprime lending has grown faster than prime lending in the past year. In 2002, subprime lenders originated 933,025 refinance loans, an increase of 33.2% from 700,638 refinance loans in 2001. Prime lenders originated 8,062,713 refinance loans in 2002, an increase of 24.7% from 2001 when they originated 6,073,987 refinance loans.

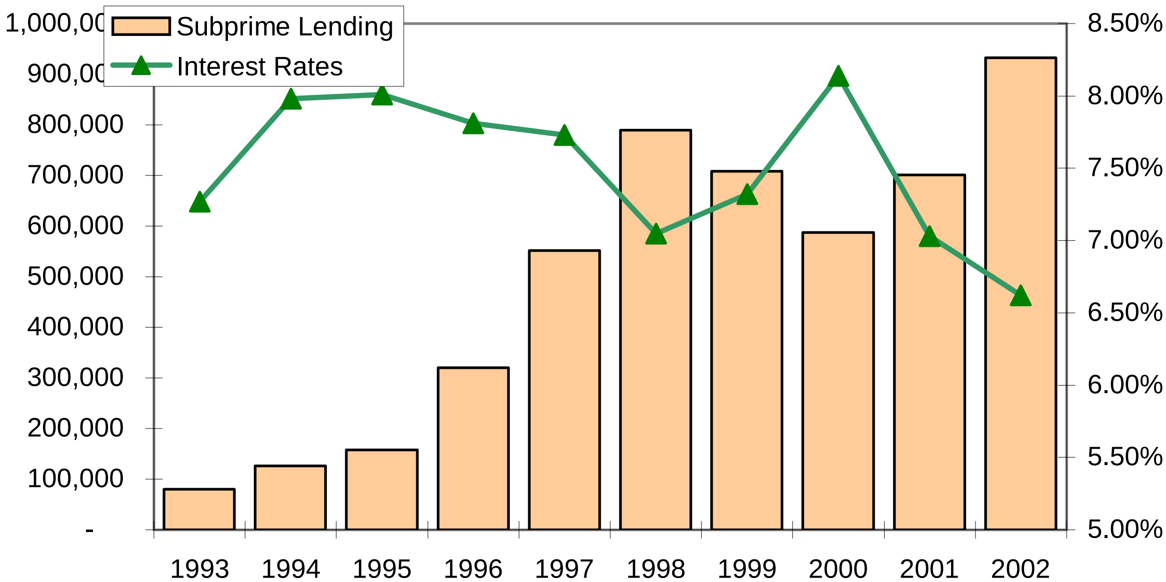
Among homeowners who refinance din 2002, subprime lenders originated one out of every ten, 10.4% of all the refinance loans originated in the country. This is slightly higher than in 2001 when subprime lenders originated 10.3% of the refinance loans.

Over the nine-year period from 1993 to 2002, subprime refinance lending grew 10 fold, and it grew more than 20 times faster than prime refinance lending. In 1993, subprime lenders originated 79,693 refinance loans while prime lenders originated 5,181,537 refinances. Subprime refinance lending increased 1070.8% from 1993 to 2002 while prime refinance lending increased 55.6%.

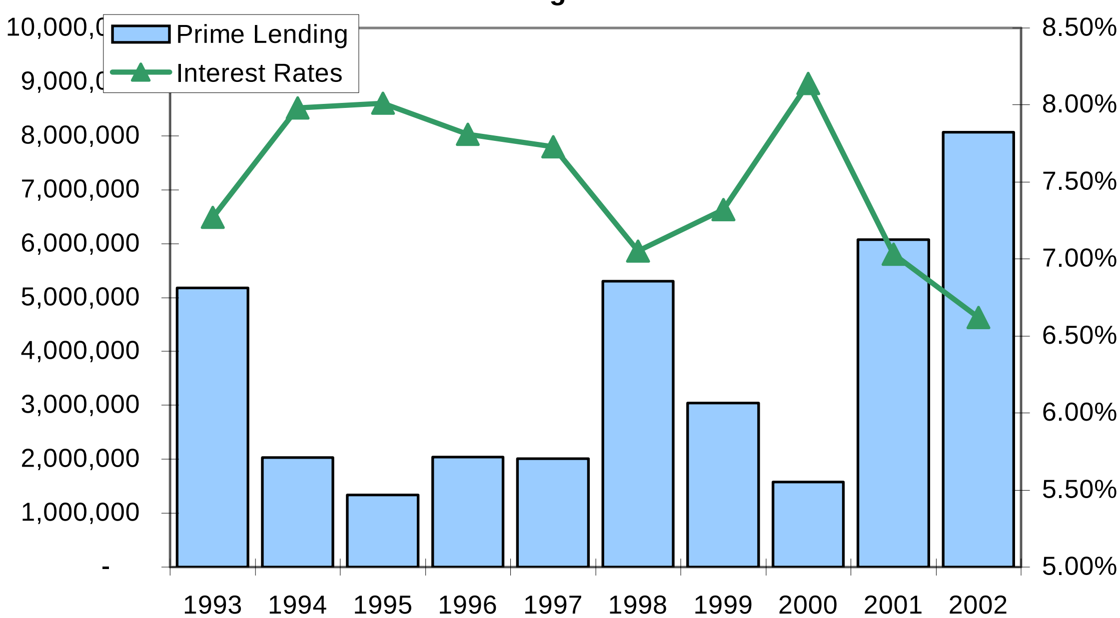
However, over the five year time period from 1997 to 2002, low interest rates fueled a growth in prime refinance lending which eclipsed the growth in subprime lending for the period. In 1997, subprime lenders originated 551,936 refinance loans while prime lenders originated 2,105,099 refinances. Subprime refinance lending increased by 69.2% from 1997 to 2002 while prime lenders took advantage of the low interest rate environment and increased their lending volume by 300.1% over this time period.

[29] Includes owner-occupied conventional refinance loan originations. Loan by manufactured housing lenders are excluded from this data. See methodology for more detailed explanation.

Subprime Refinance Lending and Interest Rates 1993-2002*



Prime Refinance Lending and Interest Rates 1993-2002

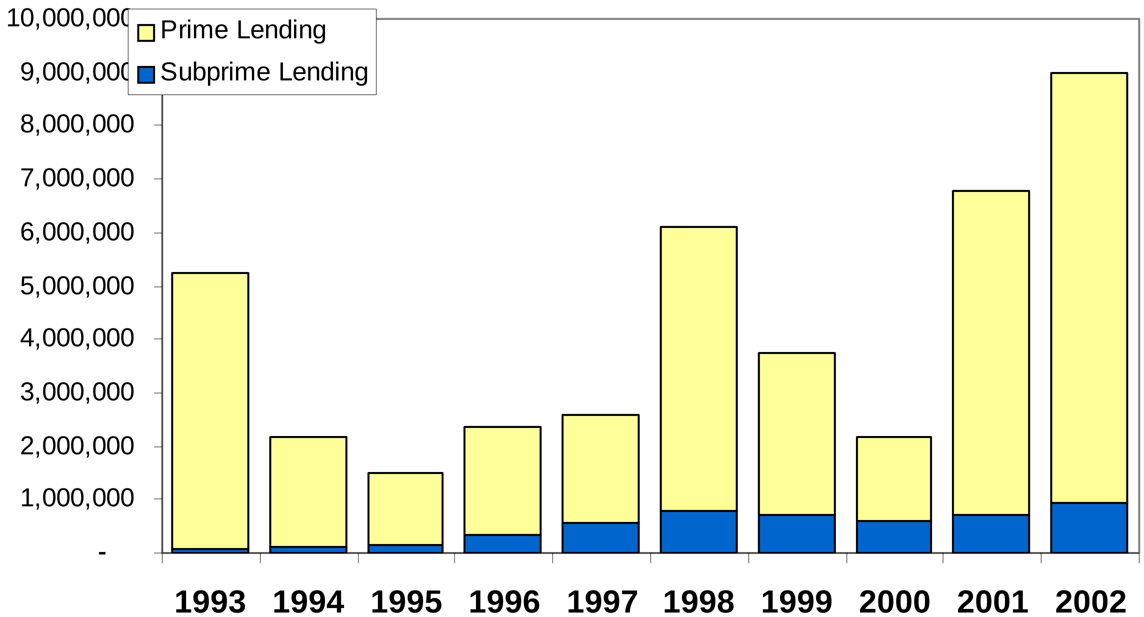


Annual National Average of Contract Interest Rate from the Federal Housing Finance Board Monthly Interest Rate Survey
Prime Loan volume for 1993-1998 from HMDA Highlights 1999, Randall Schessele,

* Annual National Average of Contract Interest Rate from the Federal Housing Finance Board Monthly Interest Rate Survey
Prime Loan volume for 1993-1998 from HMDA Highlights 1999, Randall Schessele, HUD
Prime Loan volume for 1999-2002 from HMDA data compiled using HMDAware

As the charts indicate, subprime lending volume has generally increased steadily since 1993, with the exception of moderate drops in 1999 and 2,000, when interest rates moved higher (although subprime lending volume has been considerably less sensitive to interest rate changes than prime refinance lending). The subprime share of all refinance lending has decreased from a high of 21.7% in 2000 t because of the major boom in prime refinance lending as interest rates fell sharply in 2001 and 2002.

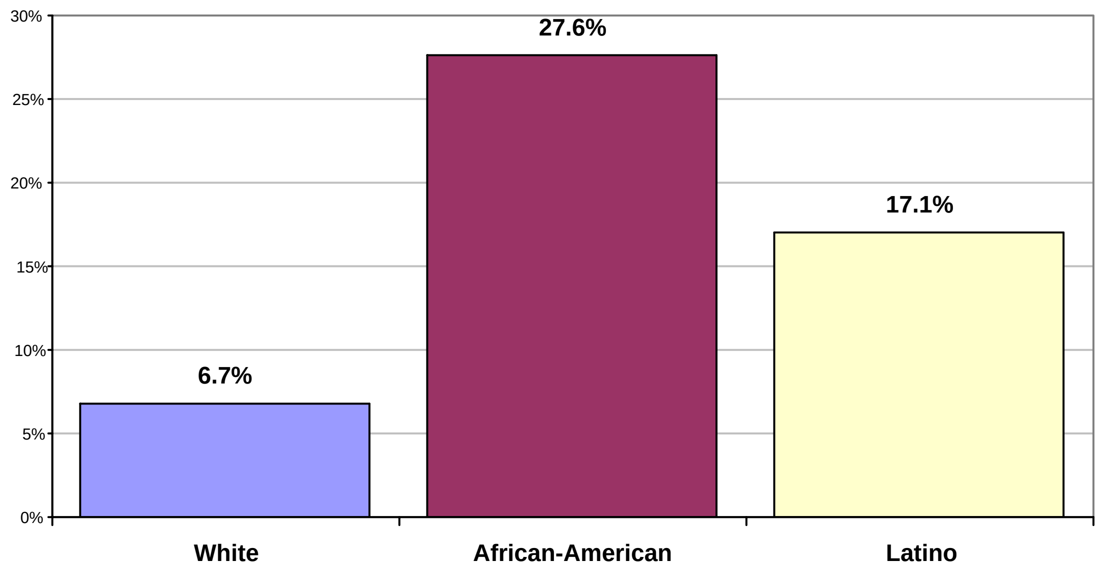
Subprime Share of Refinance Loans 1993-2002



Subprime Portion of Refinance Loans to Minorities

Subprime lenders make up a large portion of refinance loans made to minorities. In 2002, subprime lenders originated 27.6%, or more than one out of four, refinance loans made to African-American homeowners and 17.1%, or almost one out of six, refinances to Latino homeowners, compared to only 6.7%, or one out of seventeen, refinance loans to white homeowners.

Subprime Lender Share of Refinance Loans by Borrower Race 2002



Trends:

The portion of refinance loans to African-Americans made by subprime lenders has gone up dramatically since 1993, but it went down from 1997 and decreased slightly from 2001 to 2002. The portion of refinance loans to Latinos made by subprime lenders increased dramatically both from 1993 to 2002 and from 2001 to 2002 but decreased compared to 1997.

- Subprime lenders made a greater portion of refinance loans to Latinos in 2002 than in 2001 when they originated 13.6% of the refinance loans.
- The subprime share of refinances to African-Americans decreased slightly from 27.76% in 2001.
- In the longer time period from 1993 to 2002, the subprime lender share of refinance loans increased 463.3% to African-Americans, from 8.7% in 1993 to 27.6% in 2002, and increased 753.7% to Latinos, from 3% of refinances in 1993 to 17.1% in 2002.

Findings for Metropolitan Areas: Concentration of Refinance Loans to Minority Homeowners

In 61 cities of our study[30], at least one out of four refinance loans received by African-American homeowners were from subprime lenders. In 87 cities, at least one out of five refinance loans were from subprime lenders.

[30] All rankings exclude cities where there were fewer than 50 refinance loans made to African-Americans or Latinos. Excluded from rankings with African-American homeowners are: Corpus Christi, Las Cruces, San Juan-Bayamon, Sioux Falls, Brownsville-Harlingen-San Benito, and Laredo.

Greatest Concentration of Subprime Refinance Loans to African-American Homeowners 2002				
MSA		**Subprime Lender Loans**	**All Lender Loans**	**% Subprime**
Houston	TX	1,835	4,513	40.7%
Miami	FL	1,415	3,804	37.2%
Cleveland-Lorain-Elyria	OH	1,411	3,859	36.6%
Memphis	TN	1,146	3,174	36.1%
Kansas City	MO	946	2,680	35.3%
Toledo	OH	262	742	35.3%
Nassau-Suffolk	NY	1,183	3,375	35.1%
Omaha	NE	188	538	34.9%
Detroit	MI	5,892	16,935	34.8%
Tampa-St. Petersburg-Clearwater	FL	740	2,128	34.8%
Modesto	CA	96	276	34.8%

Subprime lenders originated at least at least one out of five refinance loans made to Latinos in 21 cities included in this study:

In 69 cities, subprime lenders made more than one out of eight refinance loans to Latinos:

Greatest Concentration of Subprime Refinance Loans to Latino Homeowners 2002				
MSA		**Subprime Lender Loans**	**All Lender Loans**	**% Subprime**
Providence-Fall River-Warwick	RI	254	870	29.2%
San Antonio	TX	1,205	4,790	25.2%
Nassau-Suffolk	NY	1,011	4,055	24.9%
Des Moines	IA	48	194	24.7%
Brockton	MA	46	186	24.7%
Phoenix-Mesa	AZ	3,066	12,572	24.4%
New York	NY	1,524	6,468	23.6%
Worcester	MA	89	384	23.2%
Denver	CO	2,226	9,640	23.1%
Corpus Christi	TX	186	805	23.1%
Waterbury	CT	33	143	23.1%

In all but two of the cities examined, at least one out of 10 refinance loans to African-Americans were from subprime lenders. In only 25 cities did subprime lenders represent less than 20% of the refinance loans made to African-American homeowners.

Least Concentration of Subprime Refinance Loans to African-American Homeowners 2002				
MSA		Subprime Lender Loans	All Lender Loans	% Subprime
Tucson	AZ	52	327	15.9%
Washington	DC	2,754	18,468	14.9%
San Jose	CA	167	1,248	13.4%
Lake Charles	LA	31	236	13.1%
Anchorage	AK	16	129	12.4%
Honolulu	HI	9	75	12.0%
Albany-Schenectady-Troy	NY	18	156	11.5%
Lincoln	NE	7	70	10.0%
Springfield	IL	10	139	7.2%
Madison	WI	7	263	2.7%

At least one in ten refinance loans to Latinos were from subprime lenders in all but 23 cities in this report.[31]

Least Concentration of Subprime Refinance Loans to Latino Homeowners 2002				
MSA		Subprime Lender Loans	All Lender Loans	% Subprime
Las Cruces	NM	58	841	6.9%
Milwaukee-Waukesha	WI	77	1,223	6.3%
San Juan-Bayamon	PR	1,464	23,444	6.2%
Dayton-Springfield	OH	10	164	6.1%
Greensboro-Winston-Salem--High Point	NC	16	274	5.8%
Lincoln	NE	4	69	5.8%
Albany-Schenectady-Troy	NY	5	93	5.4%
Shreveport-Bossier City	LA	3	56	5.4%
Tallahassee	FL	3	86	3.5%
Madison	WI	4	298	1.3%

[31] Excluded from these rankings are cities where less than 50 refinance loans were made to Latinos: Mobile, Chattanooga, Springfield, Sioux Falls, Jackson, Montgomery, Houma, Lake Charles, Pine Bluff.

Likelihood to Receive Subprime Refinance Loan by Homeowner Race

Minority homeowners continue to be much more likely to receive a subprime refinance loan than are white homeowners. African-Americans who refinanced were 4.1 times more likely to receive a subprime loan than white homeowners, while Latinos were 2.5 times more likely to receive a subprime loan.**+**

Homeowner Likelihood to Receive Subprime Refinance Loan 2002			
	African-American	Latino	White
Subprime Share of Refinance Loans	27.6%	17.1%	6.7%
Disparity to White	4.1	2.5	

Trends:
Since 2001, the disparity in how likely Latino as opposed to white borrowers are to receive a subprime refinance loan has increased, while the disparity between African-American and white borrowers has decreased. Disparities were the greatest in 1993, lessened from 1993 to 1997, but have increased again since 1997 for both African-Americans and Latinos.

- These numbers represent a decrease for African American borrowers from 2001 when they were 4.4 times more likely to receive a subprime loan, but an increase for Latino borrowers from 2001 when they were 2.2 times more likely to receive a subprime refinance loan.

- Disparities in subprime lending rates are worse for all minority borrowers than they were five years ago. In 1997 African-Americans were only 3.2 times more likely than whites to receive a subprime loan when refinancing and Latinos were only 1.7 times more likely than whites to receive a subprime loan when refinancing.

- The disparities were extremely large in 1993 when the total number of subprime loans was small. In that year, African-Americans were 7.9 times more likely than whites to receive a subprime loan when refinancing while Latinos were 2.7 times more likely than whites to receive a subprime loan.

Findings for Metropolitan Areas: Disparity in Subprime Lending by Borrower Race

In all but one city we studied, African-Americans were at least two times more likely than whites to receive a subprime loan when refinancing. African-Americans were at least three times more likely to receive the subprime loan in 93 cities and at least five times more likely than white homeowners to receive a subprime refinance loan in 29 cities

Greatest Disparity for African-American Homeowners				
MSA		**Subprime Share of Loans to African-Americans**	**Subprime Share of Loans to Whites**	**Disparity**
Jackson	MS	28.0%	0.4%	40.0
Montgomery	AL	21.3%	2.3%	9.3
Milwaukee-Waukesha	WI	19.4%	2.4%	8.1
Chicago	IL	31.8%	4.3%	7.4
Memphis	TN	36.1%	5.1%	7.1
Little Rock-North Little Rock	AR	29.3%	4.5%	6.5
Raleigh-Durham-Chapel Hill	NC	18.9%	2.9%	6.5
Springfield	IL	7.2%	1.2%	6.0
New Orleans	LA	31.4%	5.2%	6.0
Norfolk-Virginia Beach-Newport News	VA	21.5%	3.6%	6.0

Least Disparity for African-American Homeowners				
MSA		**Subprime Share of Loans to African-Americans**	**Subprime Share of Loans to Whites**	**Disparity**
Stockton-Lodi	CA	32.2%	12.0%	2.7
Honolulu	HI	12.0%	4.4%	2.7
Las Vegas	NV	27.9%	10.2%	2.7
Tacoma	WA	23.6%	8.6%	2.7
Salinas	CA	18.8%	7.3%	2.6
Reno	NV	17.4%	6.7%	2.6
Albany-Schenectady-Troy	NY	11.5%	4.5%	2.6
Bakersfield	CA	19.1%	7.5%	2.5
Nassau-Suffolk	NY	35.1%	14.3%	2.5
Providence-Fall River-Warwick	RI	20.2%	8.9%	2.3
Salt Lake City-Ogden	UT	18.6%	8.1%	2.3
Riverside-San Bernardino	CA	31.0%	13.8%	2.2
Fort Lauderdale	FL	18.2%	11.0%	1.7

In 64 of the examined cities, Latino homeowners were at least two times more likely to receive a subprime loan than whites. In 18 cities, Latino homeowners were at least three times more likely than whites to receive a subprime refinance loan.

Greatest Disparity for Latino Homeowners				
MSA		**Subprime Share of Loans to African-Americans**	**Subprime Share of Loans to Whites**	**Disparity**
Anchorage	AK	15.3%	2.5%	6.1
Stamford-Norwalk	CT	15.6%	3.5%	4.5
Little Rock-North Little Rock	AR	17.1%	4.5%	3.8
Bridgeport	CT	22.9%	6.0%	3.8
Springfield	MA	19.1%	5.0%	3.8
Chicago	IL	15.7%	4.3%	3.7
Des Moines	IA	24.7%	6.6%	3.7
San Jose	CA	16.7%	4.6%	3.6
Hartford	CT	20.5%	5.7%	3.6
Worcester	MA	23.2%	6.5%	3.6

Subprime lenders represented a smaller portion of loans to Latinos than of the loans to whites in only one city in this study. In 12 cities the disparity was less than 1.5 times.

Least Disparity for Latino Homeowners				
MSA		**Subprime Share of Loans to African-Americans**	**Subprime Share of Loans to Whites**	**Disparity**
Fort Lauderdale	FL	15.8%	11.0%	1.4
Indianapolis	IN	8.0%	5.9%	1.4
Wichita	KS	12.0%	8.7%	1.4
Shreveport-Bossier City	LA	5.4%	4.0%	1.4
Trenton	NJ	7.4%	5.4%	1.4
Madison	WI	1.3%	0.9%	1.4
Reno	NV	8.1%	6.7%	1.2
Albany-Schenectady-Troy	NY	5.4%	4.5%	1.2
Greensboro-Winston-Salem--High Point	NC	5.8%	4.8%	1.2
Dayton-Springfield	OH	6.1%	5.6%	1.1
Laredo	TX	17.8%	16.3%	1.1
Tallahassee	FL	3.5%	4.1%	0.9

Racial Disparities When Controlling for Income

Racial disparities remain even among homeowners of the same income level. Middle-income minority homeowners faced a greater disparity than other income levels. 27.8% of the refinance loans received by middle-income African-American homeowners were from subprime lenders as were 19.4% of the refinances to middle-income Latino homeowners. In contrast, only 7.6% of the refinance loans to white homeowners were from subprime lenders.

Subprime Lender Share of Refinance Loans by Borrower Race and Income			
Borrower Income Level	**African-American**	**Latino**	**White**
Low-Income	38.5%	19.9%	11.2%
Moderate-Income	33.2%	20.7%	9.7%
Middle-Income	27.8%	19.4%	7.6%
Upper-Income	19.6%	13.4%	5.2%

In comparative terms, middle income African-Americans were 3.7 times more likely than middle-income whites to receive a subprime refinance loan while middle-income Latinos were 2.6 times more likely than middle-income whites.

Upper-income African-American homeowners were 2.1 times more likely than upper-income white homeowners to receive a subprime refinance loan in 2002. Upper-income Latinos were 1.3 times more likely to receive a subprime loan than upper-income whites.

Moderate income African-Americans were 3.4 times more likely to receive a subprime refinance loan than moderate-income whites while moderate-income Latinos were 2.1 times more likely to receive a subprime refinance loan than moderate-income whites.

Low income African-Americans were 3.4 times more likely to receive a subprime refinance loan than low-income whites while low-income Latinos were 1.8 times more likely to receive a subprime loan than low-income whites.

Trends:

- The disparity for middle-income African-Americans is less than in 2001 when middle-income African-Americans were 4.0 times more likely to receive a subprime refinance loan than middle-income whites.
- For middle-income Latinos, the disparity is greater than in 2001 when they were 2.3 times more likely to get a subprime refinance loan than middle-income whites.
- For upper-income African-Americans, this disparity is a decrease from 2001 when they were 3.8 times more likely than upper-income whites to receive a subprime loan when refinancing.
- The disparity between upper-income Latinos and upper-income whites is a decrease from 2001 when upper-income Latinos were 2.1 times more likely to receive a subprime refinance loan than upper-income whites.

Disparity in Subprime Lender Share of Refinance Loans by Borrower Race and Income				
Borrower Income Level	**African-American**		**Latino**	
	1997	2001	1997	2001
Low-Income	2.2	3.6	1.3	1.5
Moderate-Income	2.6	3.8	1.4	1.9
Middle-Income	3.0	4.0	1.7	2.3
Upper-Income	3.5	3.8	1.8	2.1

- Compared to 1997, the disparities were greater for middle-income minorities. In 1997, middle-income African-Americans were 3.0 times more likely to receive a subprime loan than middle-income whites while middle-income Latinos were 1.7 times more likely.

Upper-income and middle-income minorities were more likely to receive a subprime refinance loan than low-income whites. 19.6% of the refinance loans to upper-income African-Americans were from subprime lenders as were 13.4% of the refinance loans to upper-income Latinos, a larger portion in both cases than the 11.2 % of refinance loans to low income white borrowers which were subprime.

In comparative terms, upper-income African-Americans were 1.8 times more likely to receive a subprime refinance loan than low-income white homeowners while upper-income Latino homeowners were 1.2 times more likely to receive a subprime loan than low-income whites.

Middle-income African-Americans were 2.5 times more likely to receive a subprime refinance loan than low-income whites while middle-income Latinos were 1.7 times more likely to receive a subprime refinance loan than low-income whites.

Likelihood to Receive a Subprime Refinance Loan by Homeowner Income

Low and moderate income borrowers are more likely to receive a subprime loan than upper-income borrowers. In 2002, 19.07% or one out of every five refinance loans received by low-income homeowners of all races were from subprime lenders, as were 15.3% or one out of every six refinances to moderate-income homeowners. In contrast, only 7.4% or one out of every fourteen refinances to upper-income homeowners were from subprime lenders.

Subprime Lender Share of Refinance Loans by Borrower Income Level 2002			
Income Level	**Subprime Lender Loans**	**All Lender Loans**	**% Subprime**
Low-Income	102,004	534,859	19.1%
Moderate-Income	231,334	1,511,610	15.3%
Middle-Income	269,926	2,283,129	11.8%
Upper-Income	306,699	4,142,983	7.4%

In comparative terms, low-income homeowners were 2.6 times more likely to receive a subprime loan than upper-income homeowners and moderate-income homeowners were 2.1 times more likely to receive a subprime loan.

Trends

These disparities decreased slightly between 2001 and 2002. If we look at changes since 1997, the disparity decreased for low-income borrowers but increased for moderate-income and middle-income borrowers.

- The disparity for low-income homeowners is a decrease from 2001 when they were 3 times more likely to receive a subprime refinance loan than upper-income homeowners. The 2002 disparity for low-income homeowners was also lower than 1997 when they were 2.8 times more likely to receive a subprime refinance loan than upper income homeowners.
- For moderate-income homeowners, the disparity decreased from 2.1 in 2001 but increased slightly from 1997 when they were two times more likely to receive a subprime refinance loan than upper-income homeowners.

Income Disparities in Individual Metropolitan Areas

In 90 cities that were examined[32], low-income homeowners were at least two times more likely to receive a subprime refinance loan than upper-income homeowners. In 14 cities, low-income homeowners were at least five times more likely to receive a subprime refinance loan than upper-income homeowners.

Greatest Likelihood of Low-income Homeowners to Receive a Subprime Refinance Loan Compared to Upper-Income Borrowers

MSA		Subprime Share of Loans to Low-Income Borrowers	Subprime Lender Share of Loans to Upper-income Borrowers	Disparity
Springfield	IL	7.2%	0.7%	10.3
San Juan-Bayamon	PR	35.2%	4.2%	8.4
Des Moines	IA	23.6%	3.2%	7.4
Dayton-Springfield	OH	22.2%	3.7%	6.0
Madison	WI	3.5%	0.6%	5.8
Milwaukee-Waukesha	WI	11.5%	2.0%	5.8
Indianapolis	IN	20.7%	3.6%	5.8
Lincoln	NE	11.2%	2.1%	5.3
Fort Wayne	IN	18.5%	3.5%	5.3
St. Louis	MO	22.8%	4.3%	5.3

[32] Excluded from comparisons to low-income homeowners are cities where less than 50 refinance loans were made to low-income homeowners: Laredo, Pine Bluff, Brownsville-Harlingen-San Benito.

Concentration of Subprime Refinance Loans to Lower Income Minorities

The concentration of subprime refinance loans is greatest to lower-income minority homeowners. Subprime lenders originated one out of three refinance loans to low-income and moderate-income African-Americans in 2002 (38.5% to low-income and 33.2% to moderate-income African Americans) and one out of every five refinance loans to low and moderate-income Latino homeowners (19.9% to low-income and 20.7% to moderate-income Latinos).

Trends:
Compared to 2001, the subprime share of refinance loans to low and moderate-income African-Americans decreased while the subprime share of refinance lending to Latinos increased. In 1997, subprime lenders made up a greater share of the subprime loans to low and moderate income African-Americans and Latinos.

- In 2001, 41.7% of refinance loans to low-income African-Americans were from subprime lenders as were 34.0% of refinance loans to moderate-income African-Americans.
- Out of the refinance loans to low-income Latino homeowners in 2001, 18.0% were from subprime lenders while 17% of the refinance loans to moderate-income Latinos were from subprime lenders.
- In 1997, 61.1% of refinance loans to low-income African-Americans were from subprime lenders as were 54.4% of the refinance loans to moderate-income African-Americans.
- Among low-income Latino homeowners who refinanced in 1997, 35.3% of loans were from subprime lenders as were 29.3% of the refinances to moderate-income Latino homeowners.

Metropolitan Areas: Concentration of Subprime Loans to Low-income Minorities

In every city examined[33], at least one out of 10 of the refinance loans received by low-income-African-Americans were from subprime lenders. In 53 cities, at least one out of every three refinance loans received by low-income African-Americans were from subprime lenders.

[33] Excluded from rankings are cities where less than 50 refinance loans were made to low-income African-Americans: Anchorage, Tucson, Pine bluff, Bakersfield, Fresno, Modesto, Salinas, Stockton-Lodi, Colorado Springs, Waterbury, Honolulu, Springfield, Des Moines, Wichita, Houma, Lake Charles, Brockton, Springfield (Mass.), Worcester, Lincoln, Reno, Jersey City, Albuquerque, Las Cruces, Albany, Buffalo, Rochester, Portland, Allentown, Harrisburg, San Juan, Providence, Sioux Falls, Brownsville, Corpus Christi, El Paso, Laredo, San Antonio, Salt Lake City, Tacoma, Madison.

Greatest Concentration of Subprime Refinance Loans to Low-Income African-American Homeowners				
MSA		Subprime Lender Loans	All Lender Loans	% Subprime
Houston	TX	220	340	64.7%
Dallas	TX	263	451	58.3%
Kansas City	MO	338	589	57.4%
Tampa-St. Petersburg-Clearwater	FL	171	320	53.4%
Fort Worth-Arlington	TX	55	103	53.4%
Austin-San Marcos	TX	45	87	51.7%
New Haven-Meriden	CT	30	60	50.0%
Detroit	MI	2,143	4,293	49.9%
Toledo	OH	84	171	49.1%
Memphis	TN	328	680	48.2%

In seven cities examined[34], at least one out of every three of the refinance loans received by low-income Latinos were from subprime lenders. In 58 cities, at least one out of every 10 refinance loans received by low-income Latinos were from subprime lenders.

Greatest Concentration of Subprime Refinance Loans to Low-Income Latino Homeowners				
MSA		Subprime Lender Loans	All Lender Loans	% Subprime
San Antonio	TX	181	419	43.2%
Lansing-East Lansing	MI	22	52	42.3%
Colorado Springs	CO	41	102	40.2%
San Juan-Bayamon	PR	43	112	38.4%
Providence-Fall River-Warwick	RI	37	105	35.2%
Des Moines	IA	22	64	34.4%
Phoenix-Mesa	AZ	707	2,091	33.8%
Hartford	CT	22	68	32.4%
St. Louis	MO	16	55	29.1%
Nassau-Suffolk	NY	92	327	28.1%

[34] Excluded from rankings are cities where less than 50 refinance loans were made to low-income Latinos: Birmingham, Mobile, Montgomery, Anchorage, Little Rock, Pine Bluff, New Haven, Stamford-Norwalk, Waterbury, Wilmington, Jacksonville, Tallahassee, Honolulu, Springfield, Fort Wayne, Louisville, Baton Rouge, Houma Lake Charles, New Orleans, Shreveport, Baltimore, Brockton, Springfield, Worcester, Jackson, Lincoln, Jersey City, Trenton, Las Cruces, Albany, Buffalo, Rochester, Greensboro-Winston-Salem, Raleigh-Durham, Akron, Cincinnati, Columbus, Dayton, Toledo, Tulsa, Allentown, Harrisburg, Pittsburgh, Sioux Falls, Chattanooga, Memphis, Nashville, Brownsville, Corpus Christi, Laredo, Norfolk-Virginia Beach, Richmond, Tacoma, Madison.

Subprime Refinance Loans to Lower Income Whites

Subprime lenders also target lower-income white homeowners.
Subprime lenders made 11.2% or one out of nine refinance loans to low-income white homeowners and 9.7% or one out of ten refinance loans to moderate-income white homeowners. In contrast, subprime lenders made only 5.2% or one out of 20 of the refinance loans made to upper-income white homeowners.

Subprime Lender Share of Refinances to White Homebuyers by Income Level			
	Subprime Lender Loans	All Lender Loans	Subprime Share
Low-Income	102,004	432,853	19.1%
Moderate-Income	231,334	1,280,276	15.3%
Middle-Income	269,926	2,013,203	11.8%
Upper-Income	306,699	3,836,284	7.4%

Concentration of Subprime Loans in Minority Neighborhoods

There is a greater concentration of subprime loans in minority neighborhoods than mixed-race or majority white neighborhoods. Subprime lenders represent nearly one-third, 31.1%, of the refinance loans made in neighborhoods where minorities represent 80-100% of the population and nearly one out of five, 18.8%, of refinance loans made in neighborhoods where minorities are 50-80% of the population. In contrast, subprime loans are only one out of eight loans, 13%, in neighborhoods with 50-80% white population and one out of twelve loans, 8.2%, made in neighborhoods with 80-100% white population.

Subprime Lender Share of Refinance Loans by Census Tract Minority Population			
Census Tract Population	Subprime Lender Loans	All Lender Loans	% Subprime
80-100% Minority Population	70,262	155,682	31.1%
50-80% Minority Population	78,443	338,771	18.8%
20-50% Minority Population	187,354	1,257,557	13.0%
0-20% Minority Population	554,702	6,175,617	8.2%

In comparative terms, homeowners who live in neighborhoods where minorities are 80-100% of the population are 3.8 times more likely to receive a subprime loan when refinancing than homeowners who live in neighborhoods where minorities are less than 20% of the population.

Trends:

This disparity is greater than it was in 2001 and greater than it was in 1997.

- This disparity is an increase from 2001 and an even larger increase from 1997 when homeowners in minority neighborhoods of at least 80% minority population were 3.1 times more likely to receive a subprime refinance loan than white neighborhoods with less than 20% minority population.
- Homeowners who live in neighborhoods with 50-80% minority population are 2.3 times more likely to receive a subprime refinance loan than homeowners in white neighborhoods with less than 20% minority population.

Metropolitan Areas: Disparities by Neighborhood Race

In every city examined[35], homeowners living in neighborhoods with at least 80% minority population were at least two times more likely to receive a subprime refinance loan than homeowners living in neighborhoods with less than 20% minority population. In 16 cities, homeowners living in minority neighborhoods (at least 80% minority population) were at least six times more likely to receive a subprime loan when refinancing than homeowners living in white neighborhoods, with less than 20% minority population.

Cities with the Greatest Disparity in Subprime Lending by Neighborhood Race

MSA		Subprime Lender Share of Loans		Disparity
		80-100% Minority	0-20% Minority	
Milwaukee-Waukesha	WI	38.2%	3.3%	11.6
Corpus Christi	TX	68.5%	6.1%	11.2
Raleigh-Durham-Chapel Hill	NC	37.1%	4.8%	7.7
Grand Rapids-Muskegon-Holland	MI	43.9%	6.0%	7.3
Detroit	MI	47.0%	6.9%	6.8
Norfolk-Virginia Beach-Newport News	VA	41.5%	6.2%	6.7
Fort Wayne	IN	48.4%	7.3%	6.6
San Antonio	TX	55.8%	8.4%	6.6
Montgomery	AL	36.5%	5.6%	6.5
Austin-San Marcos	TX	48.8%	7.5%	6.5
Dallas	TX	53.7%	8.2%	6.5

[35] Excluded from comparison of minority census tracts to white census tracts are cities where less than 50 refinance loans were made in either minority census tracts or in whit census tracts: Houma, Anchorage, Modesto, Sioux Falls, Lincoln, Springfield, Brockton, Reno, Des Moines Allentown-Bethlehem, Lansing-East Lansing, Colorado Springs, San Juan, Worcester, Madison, Salt Lake City, Las Cruces, Laredo, El Paso, Stamford-Norwalk, Waterbury, Pine Bluff, Albany, Honolulu, Tacoma, Portland.

Cities with the Least Disparity in Subprime Lending by Neighborhood Race				
MSA		Subprime Lender Share of Loans		Disparity
		80-100% Minority	0-20% Minority	
Orange County	CA	21.3%	6.9%	3.1
San Francisco	CA	16.3%	5.2%	3.1
Miami	FL	25.5%	8.1%	3.1
Nassau-Suffolk	NY	44.0%	14.8%	3.0
Oklahoma City	OK	29.6%	10.4%	2.8
Washington	DC	15.8%	5.7%	2.8
Bakersfield	CA	23.4%	8.9%	2.6
Stockton-Lodi	CA	31.8%	13.3%	2.4
Seattle-Bellevue-Everett	WA	14.3%	6.7%	2.1
Riverside-San Bernardino	CA	28.0%	13.6%	2.1

Difference in the Minority Share of Subprime and Prime Loans

Minorities receive a larger share of subprime refinance loans than of prime refinance loans. In 2002, African-Americans received 8.9% of the refinance loans originated by subprime lenders, a 3.3 times larger share than their 2.7% share of refinance loans made by prime lenders. Latinos received 8.2% of the loans originated by subprime lenders, 1.8 times more than their 4.6% share of refinance loans made by prime lenders.

Disparity in Distribution of Loans by Subprime Lenders Compared to Prime Lenders				
	Share of Population	Subprime Distribution	Prime Distribution	Disparity
African-American	13.0%	8.9%	2.7%	3.3
Latino	12.5%	8.2%	4.6%	1.8

Findings for Metropolitan Areas

In every city but one, African-Americans received at least two times greater share of refinance loans made by subprime lenders than they received of the refinance loans made by prime lenders. There was at least a five times disparity in 25 cities.

Greatest Disparity for African-Americans in Distribution of Loans by Lender Type				
MSA		Subprime Distribution	Prime Distribution	Disparity
Milwaukee-Waukesha	WI	21.1%	2.8%	7.5
Chicago	IL	26.5%	4.1%	6.5
Omaha	NE	10.5%	1.7%	6.2
Little Rock-North Little Rock	AR	30.7%	5.0%	6.1
Bridgeport	CT	18.2%	3.0%	6.1
Springfield	IL	7.3%	1.2%	6.1
Buffalo-Niagara Falls	NY	10.6%	1.8%	5.9
Des Moines	IA	4.6%	0.8%	5.8
Springfield	MA	9.9%	1.7%	5.8
Detroit	MI	32.3%	5.6%	5.8
Minneapolis-St. Paul	MN	7.0%	1.2%	5.8
St. Louis	MO	21.0%	3.6%	5.8

In all but eight cities, Latinos received a greater share of the refinance loans made by subprime lenders than the share of loans they received by prime lenders. In 42 cities, Latinos received at least two times greater share of the subprime lender loans than the share of prime lender loans.

Greatest Disparity for Latinos in Distribution of Loans by Lender Type				
MSA		Subprime Distribution	Prime Distribution	Disparity
Anchorage	AK	7.4%	1.3%	5.7
Des Moines	IA	4.2%	1.0%	4.2
Stamford-Norwalk	CT	13.3%	3.3%	4.0
Worcester	MA	6.4%	1.6%	4.0
Springfield	MA	8.1%	2.1%	3.9
Providence-Fall River-Warwick	RI	6.9%	1.8%	3.8
Hartford	CT	6.9%	1.9%	3.6
Buffalo-Niagara Falls	NY	1.8%	0.5%	3.6
San Jose	CA	25.7%	7.5%	3.4
Bridgeport	CT	12.2%	3.6%	3.4
Waterbury	CT	8.5%	2.5%	3.4
Boston	MA	5.5%	1.6%	3.4

Subprime Home Purchase Lending

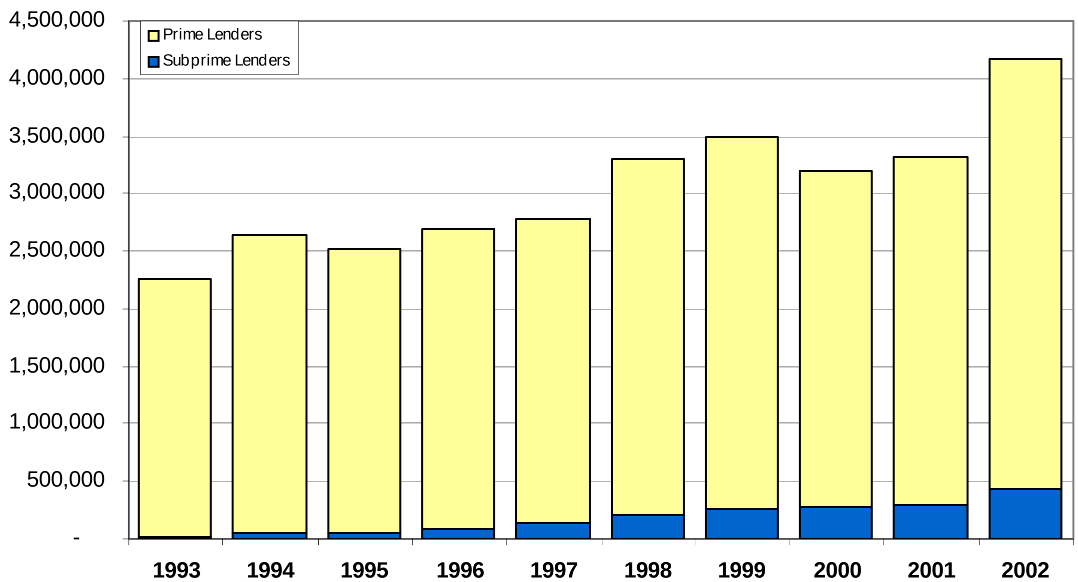
Subprime home purchase lending has increased at a faster rate than prime lending over the past ten years, and its growth has accelerated in recent years.

In conventional home purchase lending, subprime lenders originated 427,878 loans in 2002, a 44% increase from 297,189 home purchase loans in 2001. Prime lenders originated 3,736,044 conventional home purchase loans in 2002 compared to 3,023,635 loans in 2001, a smaller increase of 23.6%.

Subprime home purchase lending has also increased at a faster pace than prime purchase lending, growing 203% from 141,153 in 1997 as compared to a 41.6% in A purchase lending.

Since 1993 the differences are even more dramatic. From 1993 to 2002, conventional home purchase lending by subprime lenders increased 1,682.8% compared to a 66.8% increase in loans by prime lenders.

Change in Conventional Home Purchase Lending 1993-2002

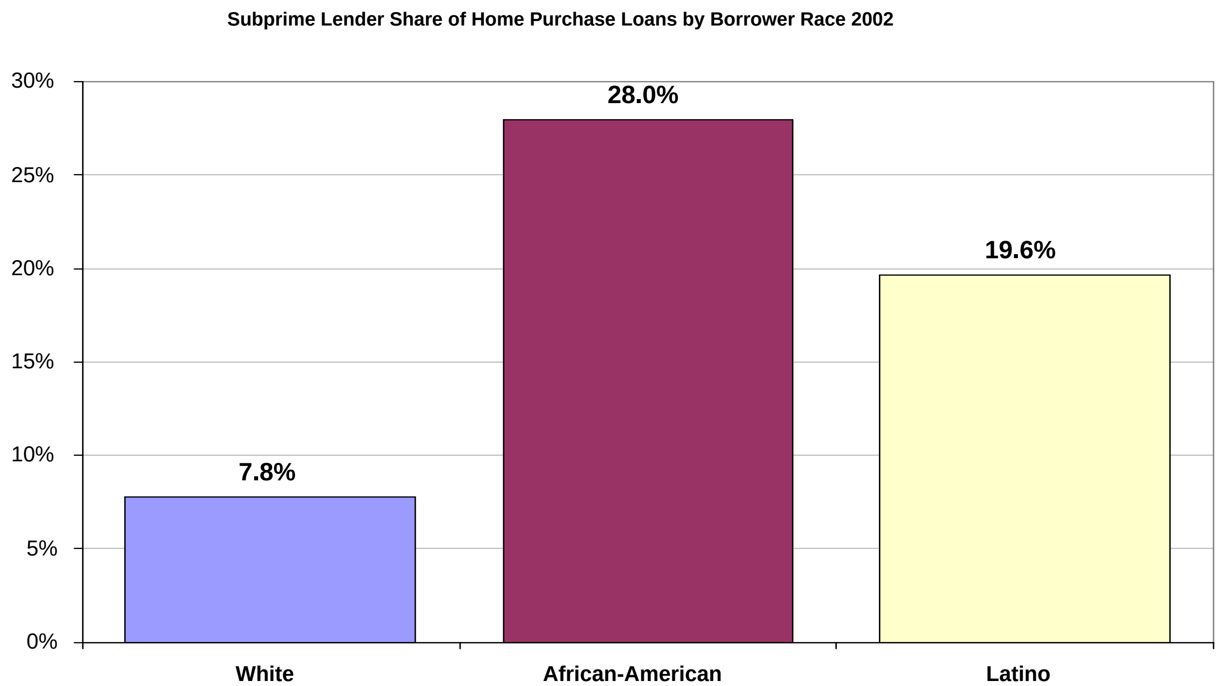


Subprime lending is becoming much more common in home purchase lending.

Subprime lenders originated at least one out of ten of conventional home purchase loans in 2002, 10.3% of all the home loans originated. This is a 14.8% increase over their 9% share of home purchase loans in 2001 and more than twice their 5.1% share of conventional home loans in 1997. In 1993, subprime lenders originated only 1.1% of conventional home purchase loans made in the country.

Subprime Portion of Home Purchase Loans to Minorities

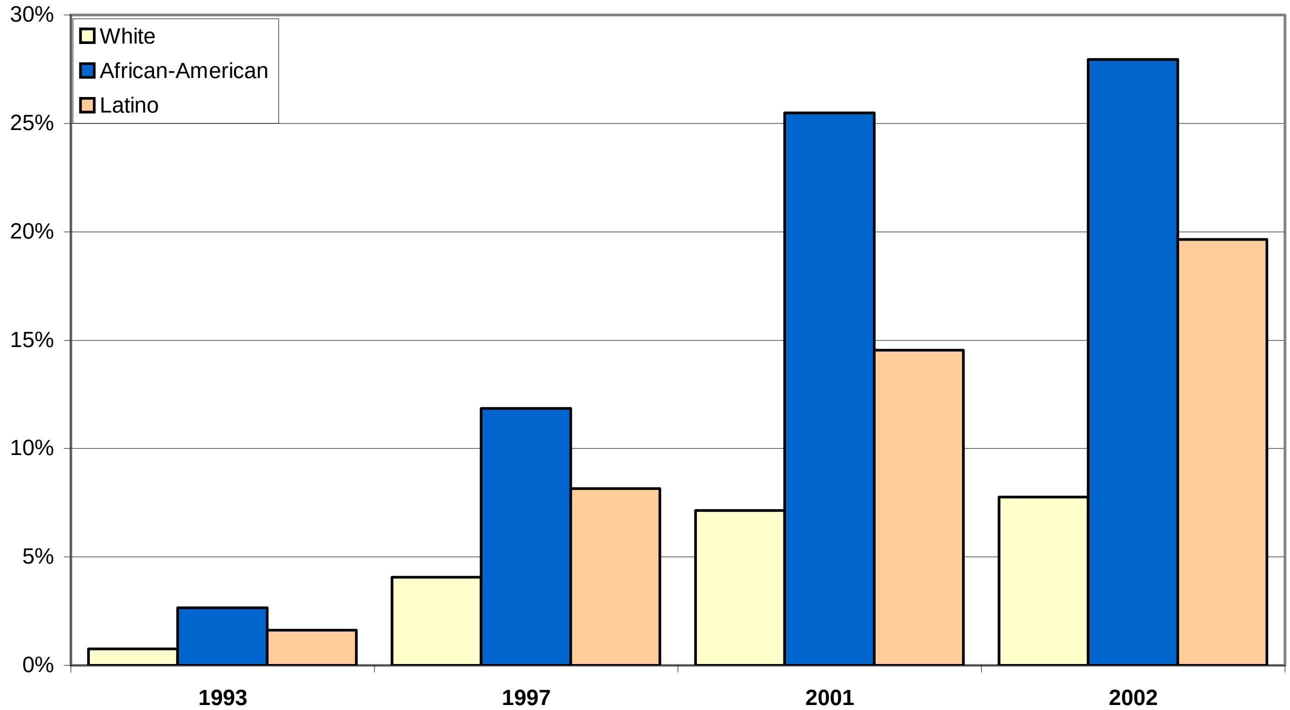
Subprime lenders represent a large portion of the home purchase loans made to minority borrowers in 2002. In 2002, 28% or more than one out of four home purchase loans received by African-Americans were from subprime lenders. 19.6% or almost one out of five home purchase loans received by Latinos were from subprime lenders. In contrast, only 7.8% or one out of thirteen home purchase loans received by whites were from subprime lenders.



Trends:

The portion of conventional home purchase loans to minorities has increased most dramatically since 1993 but has still more than doubled since 1997 and has continued to increase compared to 2001.

Subprime Lender Share of Conventional Home Purchase Loans by Borrower Race



- Subprime lenders made only 2.7% of the home purchase loans made to African-Americans in 1993 and 1.6% of those to Latinos.
- In 1997, subprime lenders originated 11.9% of the home purchase loans to African-Americans and 8.2% of those to Latinos.
- In 2001, subprime lenders originated 25.5% of the home purchase loans made to African-Americans and 14.6% of those to Latinos.

Findings for Metropolitan Areas

In 24 cities examined for this report[36], at least one out of every three home purchase loans received by African-Americans were from subprime lenders. In all but two cities, at least one out of every 10 home purchase loans received by African-Americans were from subprime lenders.

[36] Excluded from rankings for home purchase loans to African-Americans are cities where less than 50 loans were originated to either African-Americans or whites: Houma, Lincoln, Las Cruces, San Juan, Sioux Falls, Brownville, Corpus Christi, El Paso, Laredo.

Greatest Concentration of Subprime Purchase Loans to African-Americans				
		Subprime Lender Loans	All Lender Loans	% Subprime
Memphis	TN	1,369	2,714	50.4%
Tacoma	WA	185	369	50.1%
Riverside-San Bernardino	CA	1,400	3,134	44.7%
Los Angeles-Long Beach	CA	2,577	6,191	41.6%
Worcester	MA	73	179	40.8%
Stockton-Lodi	CA	231	570	40.5%
St. Louis	MO	935	2,322	40.3%
Modesto	CA	69	174	39.7%
Oakland	CA	935	2,376	39.4%
Fort Worth-Arlington	TX	415	1,059	39.2%

Least Concentration of Subprime Purchase Loans to African-Americans				
		Subprime Lender Loans	All Lender Loans	% Subprime
Wilmington-Newark	DE	95	664	14.3%
Trenton	NJ	42	300	14.0%
Lake Charles	LA	17	125	13.6%
New York	NY	772	6,113	12.6%
Rochester	NY	45	368	12.2%
Albuquerque	NM	13	119	10.9%
Shreveport-Bossier City	LA	28	264	10.6%
Tucson	AZ	13	126	10.3%
Madison	WI	8	92	8.7%
Anchorage	AK	4	54	7.4%

In eight cities examined[37], at least one out of every three home purchase loans made to Latinos were from subprime lenders. In 82 cities, at least one out of every 10 home purchase loans to Latinos were from subprime lenders.

Greatest Concentration of Subprime Purchase Loans to Latinos				
		Subprime Lender Loans	All Lender Loans	% Subprime
San Jose	CA	1,904	3,970	48.0%
Tacoma	WA	111	281	39.5%
San Francisco	CA	719	1,897	37.9%
Salt Lake City-Ogden	UT	247	668	37.0%
Portland-Vancouver	OR	304	823	36.9%
Oakland	CA	2,273	6,330	35.9%
Salinas	CA	618	1,805	34.2%
Riverside-San Bernardino	CA	5,440	16,068	33.9%
Providence-Fall River-Warwick	RI	202	624	32.4%
Waterbury	CT	40	124	32.3%

[37] Excluded from rankings for home purchase loans to Latinos are cities where less than 50 such loans were made: Mobile, Montgomery, Pine Bluff, Springfield (Ill.), Houma, Lake Charles, Shreveport, Jackson, Lincoln, Akron, Sioux Falls, Chattanooga.

Least Concentration of Subprime Purchase Loans to Latinos				
		Subprime Lender Loans	All Lender Loans	% Subprime
Grand Rapids-Muskegon-Holland	MI	34	450	7.6%
Toledo	OH	13	173	7.5%
Milwaukee-Waukesha	WI	67	894	7.5%
Little Rock-North Little Rock	AR	5	68	7.4%
Wichita	KS	21	325	6.5%
Laredo	TX	56	916	6.1%
Madison	WI	9	154	5.8%
Tallahassee	FL	4	87	4.6%
Anchorage	AK	2	70	2.9%

Likelihood to Receive a Subprime Home Purchase Loan by Borrower Race

African-American homebuyers were 3.6 times more likely to receive a subprime home purchase loan than whites while Latinos were 2.5 times more likely to receive the subprime loan.

Minority Homeowner Likelihood to Receive Subprime Home Purchase Loan 2002			
	African-American	Latino	White
Subprime Share of Refinance Loans	28.0%	19.6%	7.8%
Disparity to White	3.6	2.5	

Trends

- These disparities have increased since 2001 and since 1997 as subprime purchase lending volume has grown. In 2001, African Americans were 3.57 times more likely to receive a subprime loan while 2.01 times more likely to receive a subprime loan when buying a house.
- There is an even greater increase in disparities by race compared to 1997 when African-Americans were 2.9 times more likely than whites to receive a subprime loan when buying a home and Latinos were two times more likely to do so.

Metropolitan Area Findings

In 28 cities examined, African-Americans were at least five times more likely than whites to receive a subprime loan when buying a house.

Greatest Disparity for African-American Homebuyers				
		Subprime Share to African-Americans	Subprime Share to Whites	Disparity
Montgomery	AL	27.0%	2.3%	11.7
Springfield	IL	32.1%	3.1%	10.4
Milwaukee-Waukesha	WI	22.0%	2.6%	8.5
Chicago	IL	38.5%	4.9%	7.9
Birmingham	AL	29.6%	4.3%	6.9
Gary	IN	35.0%	5.2%	6.7
Grand Rapids-Muskegon-Holland	MI	26.0%	3.9%	6.7
Little Rock-North Little Rock	AR	33.1%	5.0%	6.6
Trenton	NJ	14.0%	2.2%	6.4
Cleveland-Lorain-Elyria	OH	32.0%	5.2%	6.2

African-Americans were at least two times more likely than whites to receive a subprime home purchase loan in all but four cities examined.

Least Disparity for African-American Homebuyers				
		Subprime Share to African-Americans	Subprime Share to Whites	Disparity
Salinas	CA	34.5%	16.3%	2.1
San Francisco	CA	27.4%	12.9%	2.1
Reno	NV	17.2%	8.2%	2.1
Riverside-San Bernardino	CA	44.7%	22.2%	2.0
Shreveport-Bossier City	LA	10.6%	5.4%	2.0
Memphis	TN	50.4%	26.5%	1.9
Albuquerque	NM	10.9%	6.2%	1.8
Salt Lake City-Ogden	UT	33.3%	18.3%	1.8
Tucson	AZ	10.3%	6.5%	1.6

In 19 cities examined, Latinos were at least three times more likely than whites to receive a subprime loan when buying a house.

Greatest Disparity for Latino Homebuyers				
		Subprime Share to Latinos	Subprime Share to Whites	Disparity
Stamford-Norwalk	CT	30.9%	4.9%	6.3
Hartford	CT	26.8%	6.1%	4.4
Springfield	MA	22.7%	5.3%	4.3
Harrisburg-Lebanon-Carlisle	PA	16.9%	4.1%	4.1
Jersey City	NJ	15.7%	4.0%	3.9
Trenton	NJ	8.5%	2.2%	3.9
Bridgeport	CT	24.8%	6.5%	3.8
Providence-Fall River-Warwick	RI	32.4%	8.8%	3.7
San Jose	CA	48.0%	13.4%	3.6
Waterbury	CT	32.3%	9.0%	3.6
New Orleans	LA	12.1%	3.4%	3.6
Madison	WI	5.8%	1.6%	3.6

In all but two cities examined, Latinos were more likely to receive a subprime loan than whites when buying a home.

Least Disparity for Latino Homebuyers				
		Subprime Share to Latinos	Subprime Share to Whites	Disparity
Little Rock-North Little Rock	AR	7.4%	5.0%	1.5
Riverside-San Bernardino	CA	33.9%	22.2%	1.5
Sacramento	CA	18.8%	12.4%	1.5
Kansas City	MO	9.4%	6.2%	1.5
Pittsburgh	PA	9.7%	6.6%	1.5
Reno	NV	11.1%	8.2%	1.4
Toledo	OH	7.5%	5.3%	1.4
Bakersfield	CA	12.1%	9.3%	1.3
Baton Rouge	LA	8.0%	6.0%	1.3
Wichita	KS	6.5%	5.5%	1.2
Atlanta	GA	8.9%	7.8%	1.1
Laredo	TX	6.1%	5.6%	1.1
Tallahassee	FL	4.6%	5.9%	--
Memphis	TN	19.7%	26.5%	--

Disparity of Subprime Home Purchase Lending by Race When Accounting for Income

The racial disparity remains even among borrowers of the same income level. Upper-income African-Americans were 2.8 times more likely than upper-income whites to receive a subprime loan when purchasing a home. Upper-income Latinos were 2.8 times more likely than upper-income whites to receive a subprime loan when purchasing a home.
Middle-income African-Americans were 3.7 times more likely to receive a subprime loan than middle-income whites while middle-income Latinos were 2.9 times more likely.

Moderate-income African-Americans were3.7 times more likely to receive a subprime loan than moderate-income whites while moderate-income Latinos were 2.1 times more likely than moderate-income whites.

Low-income African-Americas were 3.9 more likely to receive a subprime home purchase loan than low-income whites while low-income Latinos were 1.4 times more likely.

Subprime Lender Share of Loans by Borrower Race and Income			
	African-American	Latino	White
Low-Income	29.1%	10.7%	7.5%
Moderate-Income	30.8%	17.8%	8.4%
Middle-Income	30.2%	24.0%	8.3%
Upper-Income	24.1%	19.5%	7.0%

Trends:
For upper-income minorities, this disparity has decreased slightly from 2001 but increased dramatically since 1997. This disparity has decreased slightly since 2001 for middle-income African-Americans while increasing for middle-income Latinos. Since 1997, the disparities have increased for middle-income minorities.

Disparity in Subprime Lender Share of Conventional Home Purchase Loans by Borrower Race and Income				
Borrower Income Level	**African-American**		**Latino**	
	1997	2001	1997	2001
Low-Income	3.0	3.8	1.5	1.2
Moderate-Income	3.3	3.8	2.1	1.6
Middle-Income	3.6	3.8	2.4	2.3
Upper-Income	2.9	3.2	2.2	2.2

Concentration of Subprime Home Purchase Loans by Income

There is some income disparity in share of purchase loans made by subprime lenders, but it is not very great, and it is less than the disparity in subprime refinance lending. In2002, 10.4% of the loans received by low-income homebuyers were from subprime lenders, about one out of ten loans. 11.5% of the loans received by moderate-income homebuyers were from subprime lenders, about one out of nine loans. In comparison, only 8.9% of loans made to upper-income homebuyers were from subprime lenders in 2002, or about one in eleven loans.

Subprime Lender Share of Loans by Borrower Income Level			
	Subprime Lender Loans	All Lender Loans	Subprime Share
Low-Income	26,479	251,054	10.6%
Moderate-Income	82,328	715,384	11.5%
Middle-Income	116,485	1,019,500	11.4%
Upper-Income	175,070	1,974,793	8.9%

In comparative terms, low-income homebuyers were 1.2 times more likely than upper-income borrowers to receive a subprime loan to purchase their home. Moderate-income families were 1.3 times more likely to receive a subprime loan than upper-income families when purchasing a home.

Trends:

These disparities are consistent from 1997 and 2001 for both low and moderate-income families.

Concentration of Subprime Home Purchase Loans in Minority Neighborhoods

There is a greater concentration of subprime home purchase loans in minority neighborhoods than white neighborhoods. In neighborhoods where minorities consist of at least 80% of the population, one out of five home purchase loans, 24.3%, were from subprime lenders. In neighborhoods with 50-80% minority population, at least one out of six loans, 18.5%, were from subprime lenders. In comparison, 8.0% of home purchase loans in majority white neighborhoods, with less than 20% minority population, were from subprime lenders.

Subprime Lender Share of Loans by Census Tract Demographics				
	0-20% Minority	20-50% Minority	50-80% Minority	80-100% Minority
Subprime Lender Loans	233,621	107,403	40,531	30,650
All Lender Loans	2,703,795	658,304	179,201	95,722
Subprime Lender Share	8.0%	14.0%	18.5%	24.3%

In comparative terms, families buying homes in neighborhoods with at least 80% minority population were 3.1 times more likely to receive a subprime loan than families buying homes in white neighborhoods with less than 20% minority population.

Trends:

This disparity is about the same as 1997 when homebuyers in minority neighborhoods were 3.2 times more likely than those in white neighborhoods to receive a subprime home purchase loan and a small decrease from 2001 when families buying homes in minority neighborhoods were 3.5 times more likely to receive a subprime loan.

Metropolitan Area Findings

In 20 cities examined, those buying homes in neighborhoods with 80-100% minority population[38] were at least two times more likely to receive a subprime loan than those buying homes in neighborhoods with less than 20% minority population.

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[38] Excluded from comparisons by neighborhood minority population are those cities where less than 50 home purchase loans were made in either census tract with greater than 80% minority population or those with less than 20% minority population: Albany, Allentown-Bethlehem, Anchorage, Brockton, Colorado Springs, Des Moines, El Paso, Fort Wayne, Harrisburg, Honolulu, Houma, Lake Charles, Lansing, Laredo, Las Cruces, Lincoln, Little Rock, Madison, Modesto, Montgomery, Oklahoma City, Omaha, Pine Bluff, Portland-Vancouver, Reno, Salt Lake City, San Juan, Shreveport, Sioux Falls, Springfield (Ill.), Stamford-Norwalk, Tacoma, Waterbury, Wichita, Worcester.

Greatest Disparity for Minority Neighborhoods Compared to White Neighborhoods				
		Subprime Lender Share of Loans		Disparity
		Census Tracts with 80-100% Minority Population	Census Tracts with 0-20% Minority Population	
Grand Rapids-Muskegon-Holland	MI	37.5%	4.3%	8.7
Cleveland-Lorain-Elyria	OH	42.9%	6.1%	7.0
Newark	NJ	22.9%	3.3%	6.9
Birmingham	AL	37.6%	5.7%	6.6
Jacksonville	FL	43.8%	6.6%	6.6
Detroit	MI	50.2%	7.6%	6.6
Milwaukee-Waukesha	WI	20.8%	3.2%	6.5
Buffalo-Niagara Falls	NY	36.3%	5.8%	6.3
St. Louis	MO	48.2%	7.7%	6.3
Bridgeport	CT	44.2%	7.8%	5.7
Toledo	OH	31.6%	5.5%	5.7
Norfolk-Virginia Beach-Newport News	VA	36.2%	6.4%	5.7
Hartford	CT	42.0%	7.4%	5.7
Columbus	OH	36.0%	6.3%	5.7

In all but 11 cities were homebuyers in minority neighborhoods at least two times more likely to receive a subprime loan than those in white neighborhoods. In all but one city examined, homebuyers in minority neighborhoods were more likely to receive a subprime loan than those buying homes in white neighborhoods with less than 20% minority population.

Least Disparity for Minority Neighborhoods Compared to White Neighborhoods				
		Subprime Lender Share of Loans		Disparity
		Census Tracts with 80-100% Minority Population	Census Tracts with 0-20% Minority Population	
West Palm Beach-Boca Raton	FL	18.0%	10.0%	1.8
Phoenix-Mesa	AZ	21.8%	11.8%	1.8
Corpus Christi	TX	10.8%	6.2%	1.7
Rochester	NY	9.1%	5.4%	1.7
Brownsville-Harlingen-San Benito	TX	9.1%	5.6%	1.6
Stockton-Lodi	CA	26.1%	17.0%	1.5
Las Vegas	NV	27.3%	18.0%	1.5
Fort Worth-Arlington	TX	14.9%	11.0%	1.4
Bakersfield	CA	11.7%	9.1%	1.3
Riverside-San Bernardino	CA	28.2%	22.8%	1.2
Seattle-Bellevue-Everett	WA	6.8%	11.3%	--

Concentration of Subprime Home Purchase Loans to Lower-Income Minorities

Among Latino borrowers the concentration of subprime loans is greatest among moderate-income and middle-income homebuyers. Low, moderate and middle income African-Americans receive subprime loans in similar proportions. 29.1% of home purchase loans to low-income African-Americans were from subprime lenders, as were 30.8% of the home purchase loans to moderate-income African-Americans and 30.2% of the loans to middle-income African-Americans. 24% of the home purchase loans made to middle-income Latinos were from subprime lenders, as were 17.8% of home purchase loans to moderate-income Latinos and 10.7% of the loans to low-income Latinos.

Metropolitan Area Findings:

In 17 cities[39], subprime lenders originated at least one of every three conventional home purchase loans made to low-income African-Americans.

Cities with the Greatest Concentration of Conventional Home Purchase Loans to Low-Income African-Americans

		Subprime Lender Loans	All Lender Loans	% Subprime
Memphis	TN	299	510	58.6%
St. Louis	MO	347	668	51.9%
Dayton-Springfield	OH	87	180	48.3%
Detroit	MI	447	926	48.3%
Cincinnati	OH	96	220	43.6%
Nashville	TN	66	160	41.3%
Columbus	OH	73	177	41.2%
Chicago	IL	640	1,599	40.0%
Jackson	MS	77	197	39.1%
Norfolk-Virginia Beach-Newport News	VA	64	166	38.6%

In 39 cities examined[40], subprime lenders originated at least one out of every ten conventional home purchase loans made to low-income Latinos.

[39] Excluded from rankings are cities where less than 50 conventional home purchase loans were made to low-income African-Americans: Anchorage, Pine Bluff, Tucson, Bakersfield, Fresno, Modesto, Oakland, Orange County, Riverside-San Bernardino, Sacramento, Salinas, San Diego, San Francisco, San Jose, Stockton, Colorado Springs, Stamford, Waterbury, Tallahassee, Honolulu, Des Moines, Springfield (Ill.), Fort Wayne, Wichita, Houma, Lake Charles, Shreveport, Brockton, Springfield, Worcester, Lansing, Lincoln, Omaha, Bergen-Passaic, Jersey City, Albuquerque, Las Cruces, Reno, Albany, Akron, Oklahoma, Tulsa, Portland, Allentown, Harrisburg, San Juan, Providence, Sioux Falls, Chattanooga, Austin, Brownsville, Corpus Christi, El Paso, Laredo, San Antonio, Salt Lake City, Tacoma, Madison.

[40] Excluded from rankings are cities where less than 50 conventional home purchase loans were made to low-income Latinos: Anchorage, Birmingham, Mobile, Montgomery, Little Rock, Pine Bluff, Modesto, Salinas, San Francisco, Stockton-Lodi, Colorado Springs, Waterbury, Jacksonville, Tallahassee, Honolulu, Springfield (Ill.), Fort Wayne, Louisville, Baton Rouge, Houma, Lake Charles New Orleans, Shreveport, Brockton, Worcester, Lansing, St. Louis, Jackson, Lincoln, Jersey City, Las Cruces, Albany, Buffalo, Akron, Cincinnati, Columbus, Dayton, Toledo, Tulsa, Portland, Harrisburg, Pittsburgh, San Juan, Sioux Falls, Chattanooga, Nashville Brownsville, Corpus Christi,

Cities with the Greatest Concentration of Conventional Home Purchase Loans to Low-Income Latinos				
		Subprime Lender Loans	All Lender Loans	% Subprime
New Haven-Meriden	CT	17	53	32.1%
Seattle-Bellevue-Everett	WA	28	110	25.5%
Salt Lake City-Ogden	UT	18	77	23.4%
Orange County	CA	53	244	21.7%
Detroit	MI	23	110	20.9%
Omaha	NE	13	64	20.3%
Oklahoma City	OK	20	106	18.9%
Riverside-San Bernardino	CA	92	488	18.9%
Stamford-Norwalk	CT	13	69	18.8%
Tucson	AZ	40	218	18.3%
New Haven-Meriden	CT	17	53	32.1%
Seattle-Bellevue-Everett	WA	28	110	25.5%
Salt Lake City-Ogden	UT	18	77	23.4%

Disparity in Minority Share of Prime Loans Compared to Share of Subprime Loans

Minorities receive a larger share of subprime purchase loans than of prime purchase loans. In 2002, African-Americans received 12.4% of the conventional home purchase loans originated by subprime lenders, 3.4 times greater than their 3.7% share of the home purchase loans made by prime lenders. Latinos received 15.1% of the home purchase loans made by subprime lenders, a 2.1 times greater share than their 7.1% share of conventional home purchase loans made by prime lenders.

Disparity in Home Purchase Loan Distribution by Lender Type and Borrower Race			
	Share of Prime Lender Loans	Share of Subprime Lender Loans	Disparity
African-American	3.7%	12.4%	3.4
Latino	7.1%	15.1%	2.1

Metropolitan Area Findings

African-Americans received a higher share of loans made by subprime lenders than those of prime lenders in every city examined. In 22 cities, African-Americans received at least a five times greater share of the conventional home purchase loans made by subprime lenders than their share of such loans by prime lenders.

Laredo, Norfolk-Virginia Beach, Richmond, Tacoma, Madison.

Cities with the Greatest Disparity for African-Americans in Home Purchase Lending				
		Share of Loans Made by Subprime Lenders	Share of Loans Made by Prime Lenders	Disparity
Springfield	IL	24.3%	2.2%	11.0
Worcester	MA	14.5%	1.9%	7.6
Grand Rapids-Muskegon-Holland	MI	14.6%	2.0%	7.3
Indianapolis	IN	23.5%	3.5%	6.7
Milwaukee-Waukesha	WI	32.2%	4.8%	6.7
Little Rock-North Little Rock	AR	34.3%	5.2%	6.6
Chicago	IL	35.2%	5.3%	6.6
St. Louis	MO	33.1%	5.0%	6.6
Wichita	KS	12.3%	1.9%	6.5
Gary	IN	27.5%	4.3%	6.4

In 40 cities, Latinos received at least a two times greater share of the home purchase loans made by subprime lenders than they did of the loans made by prime lenders. Latinos received a greater share of the conventional home purchase loans made by subprime lenders than those made by prime lenders in all but seven cities examined.

Cities with the Greatest Disparity for Latinos in Home Purchase Lending				
		Share of Lonas Made by Subprime Lenders	Share of Loans Made by Prime Lenders	Disparity
Stockton-Lodi	CA	10.1%	4.6%	2.2
Fort Lauderdale	FL	23.7%	11.0%	2.2
Reno	NV	2.0%	0.9%	2.2
San Francisco	CA	2.3%	1.1%	2.1
New York	NY	21.9%	10.4%	2.1
Salt Lake City-Ogden	UT	0.8%	0.4%	2.0
San Jose	CA	1.9%	1.0%	1.9
Miami	FL	9.9%	5.4%	1.8
Shreveport-Bossier City	LA	17.0%	9.2%	1.8
Salinas	CA	1.8%	1.1%	1.6
Albuquerque	NM	1.9%	1.3%	1.5
Tucson	AZ	1.4%	1.1%	1.3

Many Borrowers in Subprime Loans Should Have Qualified for a Lower Cost Loan

The fact that a part of the boom in subprime lending, especially to minorities, results from the neglect of certain communities by ‘A’ lenders is further underlined by the considerable evidence that many borrowers in subprime loans could have qualified for ‘A’ loans at lower rates. Franklin Raines, the Chairman of Fannie Mae, has stated that as many as half of all borrowers in subprime loans could have instead qualified for a lower cost conventional mortgage, which according to Raines, could save a borrower more than $200,000 over the life of a thirty year loan.[41]

This conclusion is supported by other sources. *Inside Mortgage Finance* published a poll of the 50 most active subprime lenders which also found that up to 50 percent of their mortgages could qualify as conventional loans.[42] Freddie Mac has estimated that as many as 35 percent of borrowers who obtained mortgages in the subprime market could have qualified for a lower cost conventional loan.[43] In an investigation of subprime lenders, the Department of Justice found that approximately 20% of the borrowers had FICO credit scores above 700,[44] significantly higher than the minimum score of 620 which is usually required to receive a prime interest rate. The CEO of HSBC, which recently announced plans to purchase the US’s largest subprime lender, Household International, said in a recent interview that 63% of Household’s customer base (including consumers with car loans, credit cards, and unsecured loans) has prime credit.[45]

The most obvious consequence for borrowers who have been improperly steered into subprime loans is that they are unnecessarily paying more than they should. In the loans that were examined by the Department of Justice, the borrowers were paying interest rates of 11 and 12 percent and 10 to 15 points of the loan in fees, while borrowers with a prime loan had 7 percent interest rates and just 3 or 4 points of the loan in fees. A trade group for subprime lenders, the National Home Equity Mortgage Association (NHEMA), stated that from 1997 to 1999, subprime loans had an average interest rate between 2.5% and 4.0% above the rate that prime borrowers are charged.[46] NHEMA also estimated that subprime lender charge an average of 1.5 to 3 percentage points more in fees than conventional lenders.[47] Many borrowers in subprime loans are, however, charged significantly more than these figures.

As discussed in this report, subprime loans are disproportionately made to lower income borrowers. This means that subprime lenders are overcharging those homeowners who can already least afford it. A subprime loan with inappropriately high costs can impact homeowners in several ways. The added expense increases the likelihood that the homeowner will be unable to make the mortgage or other payments on time, which hurts their credit, and thus keeps them trapped in the subprime market with unfavorable loan terms. The higher costs also strip homeowners of their hard-earned equity and prevent them from building future equity. Furthermore, having a subprime loan means that the homeowner is more likely to be subject to a host of predatory practices, beyond just higher rates and fees, which will be discussed in more detail in the next section. All of these factors make it more likely that the homeowner will ultimately and unnecessarily lose their house in foreclosure.

[41] Business Wire, “**Fannie** Mae has Played Critical Role in Expansion of Minority Homeownership Over Past Decade,” March 2, 2000.
[42] *Inside B&C Lending*, June 10, 1996.
[43] “Automated Underwriting,” Freddie Mac, September 1996.
[44] “Making Fair Lending a Reality in the New Millennium,” Fannie Mae Foundation, 2000.
[45] “HSBC: Why the British Are Coming: Chairman John Bond explains why the usually cautious British bank paid a 30% premium to acquire American lender Household,” *Business Week Online*, November 18, 2002, Daily Briefing.
[46] Jeffrey Zeltzer, Executive Director, National Home Equity Mortgage Association-NHEMA, remarks to HUD-Treasury Task Force on Predatory Lending, Atlanta, GA, April 26, 2000.
[47] “Widow paying a price for high-cost loan,” *Orange County Register*, by Kate Berry, April 16, 2000.

The Exclusion of Low-Income and Minority Neighborhoods from the Economic Mainstream

Predatory lenders have been able to get away with abusive practices in part because they are exploiting the history of racial discrimination and neighborhood redlining by traditional financial institutions.

In November 2003, ACORN released a report entitled *The Great Divide*, which examined 2002 loan data for the nation as a whole, as well as for 116 metropolitan areas. The report found continuing and even growing racial and economic disparities in home purchase mortgage lending. Nationally, African-American mortgage applicants were rejected 2.4 times more often than white applicants, and Latinos were denied 1.6 times more often than whites. The report also found that while low and moderate income neighborhoods comprise 25.7% of the country, these neighborhoods only received 12.3% of the loans. Furthermore, residents of low and moderate income neighborhoods were at least two times more likely to be turned down for a loan than residents of upper-income neighborhoods.[48]

This statistical analysis corroborates a report from the Urban Institute, prepared for HUD, which concluded that minority homebuyers face discrimination from mortgage lenders. The report cited "paired testing" which showed that minorities were less likely to receive information about loan products, received less time and information from loan officers, and were quoted higher interest rates.[49]

The Great Divide also found that many metropolitan areas had much more alarming disparities in their mortgage lending than the national average. For instance, in Chicago and Milwaukee, African-Americans were more than five times more likely than whites to be denied for a conventional loan. As described in this report, when African-American borrowers do receive a loan, their likelihood of receiving a subprime loan relative to white borrowers is also among the highest in the country. African-Americans in Milwaukee were nearly nine times more likely than whites to receive a subprime loan when buying a house with a conventional loan and in Chicago were over seven times more likely.

Banks have for the most part abandoned low-income and minority neighborhoods. Economists at the Federal Reserve found that the number of banking offices in low and moderate income areas decreased 21% from 1975 to 1995, while the total number of banking offices in all areas rose 29% during this same period. This is significant because studies have documented that the proximity of a bank's branches to low and moderate income neighborhoods is directly related to the level of lending made by the bank in those neighborhoods.[50]

In 2001, one-quarter of families with incomes below 80% of the area median income did not have a bank account.[51] Having a bank account is a basic, yet important, entry point into the mainstream economy and traditional financial services. A bank account can help a consumer handle their finances, save money, and establish the type of credit which is often a prerequisite to receiving a conventional loan.

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[48] The report examined applications for conventional home purchase loans. Low and moderate income neighborhoods are defined as census tracts in which the median income is below 80% of the median income for the entire metropolitan area. Upper income neighborhoods are census tracts in which the median income is more than 120% of the area's median income.

[49] "Discrimination in Metropolitan Housing Markets: National Results from Phase I of HDS2000," The Urban Institute, November 2002.

[50] *The Community Reinvestment Act After Financial Modernization: A Baseline Report*, U.S. Treasury Department, April 2000.

[51] *The State of the Nation's Housing: 2001*, Harvard University Joint Center for Housing Studies, p. 29.

In addition, having an account establishes a relationship with a bank, which makes it more likely that the consumer will contact that bank regarding loans and other services. Furthermore, the consumer will also be contacted by the bank as it markets its other products, such as mortgages, to its existing customer base.[52]

The ten million American families without bank accounts represent a substantial market of consumers who require alternative financial services. In response, a "fringe economy" has emerged made up of check-cashing stores, pawnshops, and payday lenders, which are then able to overcharge lower income consumers. Many of these "shadow banks" are funded by mainstream banks. For instance, Wells Fargo, the seventh largest bank in the country, has arranged more than $700 million in loans since 1998 to three of the largest check cashers: Ace Cash Express, EZ Corp., and Cash America.[53] Payday lenders are also increasingly trying to rent out national bank charters to avoid state consumer protection laws.

The exclusion of low-income and minority communities from traditional banking services has also translated into a lack of the financial knowledge that could help consumers receive loans with more reasonable terms. For instance, a study by Benedict College found that half of African-Americans with good credit ratings were not aware of it.[54]

And there can be a difference between a borrowers credit worthiness and the credit history that is available at a credit bureau. Because credit scores do not reflect many sources of credit for lower-income families (utility bills, rent payments) and penalize for the use of finance companies, the credit worthiness of lower-income applicants may not be reflected in a consumer's credit history. Particularly since there are so many errors in credit reports, both the sophistication of a borrower to identify and correct errors prior to the application and the availability of proper credit counseling can impact the ability to get a lower cost loan. We also cannot underestimate the impact of previous predatory loans on a borrower's credit history. Once a family has received a predatory loan, their credit can easily decline due to inability to make the payments, refusal to make payments on an unconscionable loan, bankruptcy due to the unaffordable payments, or even foreclosure. A borrower who may have had good credit to begin with may then have it ruined due to the practices of a predatory lender. And research indicates that subprime lending is higher in neighborhoods where families are less likely to have a credit score.[55]

These factors have created an environment that was ripe to be picked by predatory lenders who aggressively target these underserved communities with a bombardment of mailings, phone calls, and door-to-door solicitations. Sales to the captive audience of the subprime market are driven by inappropriate and deceptive marketing practices that encourage potential borrowers to believe that they have no better credit options for their legitimate credit needs.

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52 *The Community Reinvestment Act After Financial Modernization: A Baseline Report*, U.S. Treasury Department, April 2000..

53 "Easy Money," *Business Week*, April 24, 2000.

54 *The State*, February 22, 2000.

55 "The Broken Credit System," National Community Reinvestment Coalition, 2003.

Predatory Lending Practices

The reach and effect of abusive practices by predatory lenders have increased along with the dramatic growth of the subprime industry. The following are some of the more common predatory practices, which are usually sold through a variety of high-pressure, bait-and-switch, and other deceptive sales tactics.

Financing Excessive Fees into Loans

Predatory lenders often finance huge fees into loans, stripping thousands of dollars in hard-earned equity and racking up additional interest in the future. Borrowers in predatory loans have been routinely charged fees of 5%-10% of the loan amount in fees, compared to the average 1%[56] assessed by banks to originate loans. Once the paperwork is signed and the rescission period expires, there is no way to get that equity back, and borrowers frequently lose up to $10,000 or $15,000 from their home while receiving little, if any, benefit from the refinancing. The damage is compounded at higher interest rates as borrowers often pay tremendous interest costs in the several years it can take just to pay down the fees. Typically, the loan fees are kept below 8% in order to stay under the HOEPA fee threshold established by federal law, which would then require additional disclosures to the borrower and a few very limited consumer protections.

> *A homeowner had been making his mortgage payments of about $400 for thirteen years when he received a live check in the mail from Wells Fargo Financial. After his cashing the check resulted in a 19.5% interest rate loan, Wells began soliciting him to refinance his mortgage and consolidate some debts, promising savings on interest costs and cheaper monthly payments. Wells refinanced him into a new $63,556 mortgage but never mentioned their financing 10 "discount points" into his loan, which stripped away $6,356 of his equity, plus another $1,061 in other fees. Despite all those discount points, Wells increased his interest rate to 10.3% and his monthly payments to $693. When Wells didn't pay off all the promised debts, they gave him two credit cards that he did not realize were secured by his house. The balances on these cards pushed his mortgage debt above the value of his home, which prevents him refinancing to a better rate.*

Charging Higher Interest Rates Than A Borrower's Credit Warrants

While the higher interest rates charged by subprime lenders are intended to compensate lenders for taking a greater credit risk, too many borrowers are unnecessarily paying higher interest rates. Borrowers with perfect credit are regularly charged interest rates 3 to 6 points higher than the market rates; with some subprime lenders, there simply is no lower rate, no matter how good the

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56 See Freddie Mac's weekly mortgage market survey at http://www.freddiemac.com/learn/cgi-bin/dLink.cgi?jp=/PMMS/display/PMMSOutputYr.jsp&ENV=PROD.

credit. According to a rate sheet used by the Associates in the spring of 2000, their lowest interest rate for a borrower with excellent credit and a low loan-to-value ratio was over 10%, and since then Household borrowers with excellent credit were seeing rates above 11%. And for borrowers with imperfect credit, rates are frequently much higher than even somewhat blemished credit would reasonably warrant, as well as for what the industry describes as standard rates for B, C, or D borrowers.

> *A family had a 7.8% interest rate on their mortgage when they cashed a live check from Wells Fargo Financial to help out their unemployed adult son. They didn't understand the difference between WF Bank and WF Financial and decided to refinance to pay off some bills and buy new windows when WF Financial promised a 6% interest rate. A few weeks later, Wells said it would be an 8% rate and then at closing they found it would be 10.0%, despite Wells Fargo's financing 7 discount points into their loan, which stripped away $7,813 of their equity. The couple thought about not taking out the loan, but they had already stopped making payments on some of the debts that would be paid off and felt they had to go through with it. Six months later, the husband still had excellent credit scores of 682, 731, and 680; a few months, the family refinanced with the help of ACORN Housing Corporation into a 5.3% interest rate mortgage.*

Prepayment Penalties[57]

More than two-thirds of subprime loans have prepayment penalties, compared to less than 2% of conventional prime loans.[58] The penalties come due when a borrower pays off their loan early, typically through refinancing or a sale of the house. The penalties remain in force for periods ranging from the first two to five years of the loan, and are often as much as six months interest on the loan. For a $100,000 loan at 11% interest, the penalty would be over $5,000, which would be financed into the new loan. For borrowers who refinance or sell their houses during the period covered by the prepayment penalty, the penalty functions as an additional and expensive fee on the loan, further robbing them of their equity.

Lenders argue that prepayment penalties protect them against frequent turnover of loans, and that as a result of the higher rates which investors are willing to pay for loans with prepayment penalties, they are able to charge borrowers lower interest rates. The truth is, however, that very large and quite predictable numbers of borrowers in subprime loans do refinance within the period covered by the prepayment penalty and may well end up paying more in the penalty than they "saved" even if their interest rate was reduced. It is particularly pernicious when

[57] For a longer analysis of the problems with prepayment penalties, see "Why Prepayment Penalties are Abusive in Subprime Home Loans," Center for Responsible Lending Policy Brief, April 2, 2003.
[58] HUD-Treasury Report on Predatory Lending, p. 90.

prepayment penalties keep borrowers trapped in the all too common situation of paying interest rates higher than they should be.[59]

Borrowers are frequently unaware that their loans contain a prepayment penalty. Some lenders' agents simply fail to point it out, while others deliberately mislead borrowers, telling them they can refinance later to a lower rate, without informing them of the prepayment penalty that will be charged. Even the most knowledgeable borrowers can easily the prepayment penalty amid the mounds of paperwork, and end up robbed of additional equity or trapped in an excessive rate because the penalty boosts up their loan-to-value ratio.

In a significant step forward in July 2003, the federal Office of Thrift Supervision changed a rule interpretation that effectively restored a number of state laws providing varying levels of consumer protections against prepayment penalties. Despite the familiar industry claims that moving forward with a final rule would reduce access to credit, no evidence has been shown of any differences in loan volumes between states that have or do not have restrictions on prepayment penalty. The state Attorneys General's settlement with Household also represented a major advance in requiring the country's largest subprime lender at the time to limit all of its prepayment penalties to the loan's first two years, both retroactively and prospectively.

> *A couple who had lived in their home for over twenty years got a loan from Wells Fargo Financial to buy some furniture. When the husband was out of work from his construction job, they went back to Wells to get another small loan but were convinced to consolidate debts into their mortgage. While over 90% of the debts being paid off had rates below 10%, the new loan contained an interest rate of 12.1%. On top of the 10 "discount points" Wells Fargo Financial financed into the loan (which took away $10,169 of their equity), Wells locked them into the high rate with a five-year prepayment penalty for around $4,500 – meaning they would have to pay that amount before refinancing to a better rate or selling the house within the first five years of the loan. The Wells loan officer had falsely described the origination fees as being waived if they held the loan for a year or two and were never told about the prepayment penalty.*

[59] See also the discussion below on how prepayment penalties interact with yield-spread premiums to trap borrowers in excessive interest rates.

Making Loans Without Regard to the Borrower's Ability to Pay

Some predatory lenders make loans based solely on a homeowner's equity, even when it is obvious that the homeowner will not be able to afford their payments. Especially when there is significant equity in a home, the lender can turn a profit by reselling the house after foreclosure. Until that happens, the borrower is stuck with exorbitant monthly payments.

In other cases, the opportunity to strip away huge amounts of home equity drives the origination of clearly unaffordable mortgages. For mortgage brokers, the immediate opportunity to legally take away several thousand dollars of home equity more than offsets the eventual consequences of the loan, which will be dealt with by the holder on the secondary market. Similarly, personal commissions may push loan officers at mortgage companies to make loans that cannot be repaid.

> *A single homeowner in her mid-50s works two jobs as a certified nurse's aide – one full-time and one part-time on the weekends – making a net monthly income of $2,037. She had a mortgage with an interest rate of 7.1% when she started getting mailings from Wells Fargo Financial, and she went down to their office because she was interested in a 12-year loan that would pay off her mortgage by the time she retired at age 67. The Wells loan officer said they could do that and convinced her to consolidate some credit card debts into her mortgage. The loan she eventually received was for 15 years and pushed her into a variable interest rate that started at 9.6%. Wells Fargo Financial's monthly payments of $1,081 take up more than half of her monthly income and unlike her previous mortgage do not cover taxes or insurance, which she now has to pay separately. She is having a hard time keeping up with the payments, which will go up if interest rates from their historically low levels.*

Loans for Over 100% Loan to Value

Some lenders regularly make loans for considerably more than a borrower's home is worth with the specific intents of maximizing their debt and thus their payments, and trapping them as customers for an extended period. Even borrowers with excellent credit have no way to escape from a high rate loan if they are 'upside down' and owe more than their home is worth. Borrowers are frequently unaware that they owe much more than their homes are worth, and even more frequently unaware of the consequences. In the face of criticism from Wall Street and longstanding pressure from ACORN, in the spring of 2002 Household quietly eliminated its common practice of using extremely high-rate open-end second mortgages that push borrowers' LTV ratios above 100%.

Four years ago a couple with two young children bought a home that was recently appraised for $105,000. When the wife went down to a Wells Fargo Financial office to make a credit card payment, an employee began talking to her about the benefits of debt consolidation, and so she discussed it with her husband. They went down to the office and eventually received a $107,481 mortgage with $5,131 in Wells' financed fees, higher payments, a much higher interest rate of 10.3%, and the maximum 5-year prepayment penalty allowed under state law that could cost up to $5,300. Because the mortgage did not pay off all the debts that had been promised, Wells gave them a credit card with an interest rate of around 28%, which they quickly paid off. Nevertheless, the family's high loan amount and the prepayment penalty exceed the value of their home, which traps them in the excessive interest rate.

Yield Spread Premiums[60]

A yield spread premium is compensation paid by a lender to a mortgage broker for the broker's success in getting the borrower to accept a higher interest rate than the lender would have given the borrower at their standard, or "par," rate. Brokers usually receive this kickback on top of an already large origination fee financed into the borrower's loan. While brokers typically try to create the impression with borrowers that they are trying to secure the best possible loan, yield spread premiums create an obvious financial incentive for brokers to increase the loan costs. In the text of a proposed rule that would change how the premiums are disclosed but would not alter their fundamentally abusive nature, HUD estimates that lenders annually pay brokers $15 billion to increase borrower's interest rates – the same amount that borrowers pay in origination charges.[61]

Yield-spread premiums further harm borrowers in that the financial incentives often drive lenders to insist that the loans include prepayment penalties. Since by definition a yield-spread premium pushes the borrower into an excessive interest rate, borrowers who later realize their actual interest rate are more likely to refinance out of the loan. To reduce the likelihood that borrowers will refinance out and to ensure their profits even if they do, lenders often require brokers to also include a prepayment penalty when the interest rate is inflated due to a yield-spread premium.

[60] For a longer discussion of yield-spread premiums, see "Kickbacks or Compensation: The Case of Yield Spread Premiums," Howell E. Jackson and Jeremy Berry, May 2002, www.law.harvard.edu/programs/olin_center/cvs/2003/jackson_pubs.pdf.
[61] Docket No. FR-4727-P-01, *Federal Register*, July 29, 2002, p. 49170.

A family of seven was attempting to buy a house through a loan arranged by a broker who was a member of their church. After the broker kept delaying the closing, the family ended up paying financed broker origination fees of $3,359 and other fees of $3,143 on a loan amount of $130,500. While 'A' rates at the time were below 6%, the loan put the family into a variable rate that started at 8.9%, which was also the floor with a ceiling rate of 14.9%. The broker never mentioned that the lender paid him a yield spread premium of $1,305 for inflating the interest rate. To ensure that they would not refinance out to a lower rate, at closing the broker slipped in a three-year prepayment penalty that would cost another $4,600.

Home Improvement Scams

Some home improvement contractors deliberately target their marketing efforts to lower income neighborhoods where homes are in most need of repairs, and where the owners are unable to pay for the service. The contractor tells the homeowner they will arrange for the financing to pay for the work and refers the homeowner to a specific broker or lender, even driving them to the lender or broker's office. Sometimes the contractor begins the work before the loan is closed, so that even if the homeowner has second thoughts about taking the loan, they are forced into it in order to pay for the work. The lender may then make the payments directly to the contractor, which means that the homeowner has no control over the quality of the work. As a result, the work may not be done properly or even at all, but the homeowner is still stuck with a high-interest, high fee loan.

A woman had been renting her house with the option to buy when the owner started pressuring her to buy it, and she went through with it because he collected the rent but never made any of the repairs. She talked to a contractor about fixing the roof, the furnace, and the plumbing and electrical systems, and they promised to arrange the financing but only if she did it through American Mortgage Reduction. They would only give her an interest rate of 12.4% with substantial fees and paid the contractor directly without checking if any of the work was done. But the contractor did not complete all the work, and now she is saddled with all the extra debt.

Single Premium Credit Insurance and Other Financed Products

Credit insurance is insurance linked to a specific debt or loan which will supposedly pay off that particular debt if the borrower loses the ability to pay either because of death (credit life insurance), sickness/disability (credit disability insurance), or loss of a job (credit involuntary unemployment insurance). These policies have long been aggressively and deceptively sold in the subprime market while they have rarely been offered in the 'A' lending world. Credit insurance policies are most destructive when the entire cost of the policy is put into a single premium – usually for several thousand dollars – and financed by the lender into the loan amount (in contrast to monthly-paid policies in which the borrower pays a premium each month for the coverage). The financing of these policies strips away equity, inflates origination fees, and racks up substantial extra interest charges on high-rate loans. Because the financed policies produce such huge profits, loan officers often falsely tell borrowers that such policies are required in order to get the loan or that the policies last for the entire life of the loan when they might only cover the first five years, if they tell the borrower about the policy at all.

Given the prevalence of these financed policies in the subprime market and the damage they inflicted, community groups and other opponents of predatory lending made their elimination (and replacement by monthly-paid policies) a top priority. In 2000, the HUD-Treasury report on predatory lending recommended that such policies be prohibited on all home loans, which was followed by announcements from Fannie Mae and Freddie Mac that they would no longer buy loans with single-premium credit insurance. Over the past few years, campaigns for anti-predatory lending legislation have won state laws effectively banning the financing of single-premium credit insurance in North Carolina, California, Georgia, New York, New Jersey, and New Mexico. In October 2002, the Federal Reserve implemented a regulatory change to the federal HOEPA law that greatly discourages the financing of such policies by counting them toward the calculation of 'points and fees' for HOEPA purposes. By that time, most lenders had bowed to publish pressure and stopped financing such products, although Wells Fargo Financial kept packing them into loans until the rule change.

Since the Federal Reserve rule change has pretty much eliminated any remaining financing of single-premium credit insurance policies, the possibility has been left open for lenders to finance debt cancellation or suspension agreements that are different only in name. Wells Fargo Financial has also been financing single-premium life insurance policies that just happen to offer coverage for the amount of the loan. In addtion, lenders have long been using deceptive sales tactics to finance somewhat smaller "home and auto membership plans" and other similar products that steal equity and lead to higher interest costs.

> *A mother and her adult son had a mortgage on their house with an interest rate of 7.7% and went to Wells Fargo Bank about refinancing their mortgage and consolidating some bills. Although they didn't realize the difference, a Wells Fargo Financial loan officer called them and led them to believe he could get them a fixed rate between 5% and 6%. The $77,081 loan they received contained a variable interest rate that starts at 10.2%, and despite the high rate Wells stripped away $3,669 of their equity in "discount points." On top of the origination fees, the loan officer pressured them into accepting what he called a "standard policy": a financed single-premium life insurance policy for $3,520 that provided coverage for the amount of the loan. They tried to cancel the loan before the three days after origination expired but were unable to reach anyone at WF Financial before then.*

Balloon Payments

Mortgages with balloon payments are arranged so that after making a certain number of regular payments (often five or seven years worth, sometimes 15), the borrower must pay off the remaining loan balance in its entirety, in one "balloon payment." About ten percent of subprime loans have balloon payments.[62]

There are specific circumstances where balloon payments make sense for some borrowers in loans at 'A' rates, but for most borrowers in subprime loans they are extremely harmful. Balloon mortgages, especially when combined with high interest rates, make it more difficult for borrowers to build equity in their home. After paying for some number of years on the loan, with the bulk of the payments going, as they do in the early years of a loan, to the interest, homeowners with balloon mortgages are forced to refinance in order to make the balloon payment. They incur the additional costs of points and fees on a new loan, and they must start all over again paying mostly interest on a new loan, with another extended period, usually thirty years, until their home is paid for.

In addition, many borrowers are unaware that their loan has a balloon payment, that their monthly payments are essentially only paying interest and not reducing their principal, and that the balloon will ultimately force them to refinance.

> *A couple received a call from a mortgage broker offering to refinance their two mortgages, which was helpful since the husband had been out of work from his construction job the last few months. A few weeks after signing the papers, he realized the $132,000 loan actually had an interest rate of 13% and a substantial origination fee of $9,200. The high rate was likely the result of a $1,320 yield spread premium the lender paid to the broker. Making it worse, the fifteen years of monthly payments of $1,320 do not pay off the loan. At the end of that time, the couple will face a balloon payment of $114,329.*

Loan Flipping

Flipping is a practice in which a lender, often through high-pressure or deceptive sales tactics, encourages repeated refinancing by existing customers and tacks on thousands of dollars in additional fees or other charges each time. Some lenders will intentionally start borrowers with a loan at a higher interest rate, so that the lender can then refinance the loan to a slightly lower rate and charge additional fees to the borrower. This kind of multiple refinancing is never beneficial to the borrower and results in the further loss of equity. Flipping can also take place when competing lenders refinance the same borrowers repeatedly, promising benefits each time which are not delivered or which are outweighed by the additional costs of the loan.

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[62] HUD-Treasury Report on Predatory Lending, p. 92.

A retired couple living on a fixed income who had home-secured debt of $51,000 and affordable mortgage payments began receiving phone calls from Wells Fargo Financial offering to consolidate outside debts into their mortgage at a rate as low as 5%. The loan officer told them not to worry about any fees and that the rate wouldn't be as low as originally promised, which the couple trusted because they thought WF Financial was part of a bank (when it is actually an affiliated mortgage company). The loan they eventually received stripped away $3,658 of their equity in Wells' financed fees on a new $76,824 loan and, despite the loan officer telling the couple they had good credit, contained an interest rate of 10.5%.

The couple had a difficult time keeping up with their payments as they cared for two grandchildren and had to pay the husband's medical bills for his escalating heart problems. Wells talked to them about refinancing again and eleven months after the previous loan put them into a new loan for $92,807, which paid off some other small debts. Without refinancing of the previous fees, Wells financed another origination fee of $4,640 into the loan, stripping more of their equity. While their interest rate was slightly lowered to 9.6%, their monthly payments increased, and Wells trapped them in the rate with a three-year prepayment penalty for about $3,500.

Property Flipping

Property flipping is an elaborate scam in which unsuspecting first-time homebuyers are sold houses in serious states of disrepair for prices far above what the houses are actually worth.

The typical "property flip" begins with an investor or real estate company purchasing a distressed property for as little as a couple of thousand dollars. After doing minimal cosmetic or even no work to the property, the owner finds a buyer, frequently targeting low-income, minority families. The buyers have no agent representation of their own and no real estate knowledge, putting them at the mercy of the seller/owner. The seller/owner abuses this position by lying about the condition of the house, promising to make visibly-needed repairs, setting the sales price at far above the property's actual value, and referring the buyer to a subprime lender or broker.

Many subprime lenders will only make a purchase loan if the loan is for 80% or less of the value of the property. In these instances, the property seller uses a number of schemes in order for it to appear that the buyer has the required down payment of 20% or more. The seller first sets the sales price far above what the property is actually worth, then the seller falsifies the buyer's deposit and will often create a second mortgage, which exists on paper only. The key to the scam is having a lender or broker that will utilize appraisers who will support the property's inflated sales price. In exchange for their participation, the lender or broker is compensated by the fees and additional charges on the loan, which are often excessive.

Buying one's first house is often a major milestone in life and an important step towards achieving economic self-sufficiency, but the swindlers involved in property flipping have made the experience one of the worst things to ever happen to their victims. While there are no hard numbers about how many families have been victimized by property flipping, the problem reached epidemic proportions in many cities before the authorities were even aware that a problem existed. And although the economic downturn has played a role, HUD's failure to implement adequate reforms has contributed to the highest ever delinquency rates on FHA loans.[63]

> *A woman who was tired of renting bought a house that was in bad condition, but the seller promised to fix it up if she bought it. She gave him a deposit, and he said he would get started on the work and arranged for her to get a brokered loan through WMC. The $31,900 loan contained a 13.7% interest rate. She asked to do a walk-through inspection, but the seller's lawyer assured that it wasn't necessary because the seller was a man of his word. When she moved in, she discovered the repairs had not been made, and the seller told her it was her problem. She was unable to afford the repairs, and within a year of her moving in the city condemned the house, and she and her family had to move out.*

Aggressive and Deceptive Marketing – The Use of Live Checks in the Mail

Much of the competition between lenders in the subprime industry is not based on the rates or terms offered by the different lenders, but on which lender can reach and "hook" the borrower first. Predatory lenders employ a sophisticated combination of "high tech" and "high touch" methods, using of multiple lists and detailed research to identify particularly susceptible borrowers (minority, low-income, and elderly homeowner) and then mailing, phoning, and even visiting the potential borrowers in their homes to encourage them to take out a loan.

One of the methods used routinely and successfully by predatory lenders is the practice of sending "live checks" in the mail to target homeowners. The checks are usually for one thousand to several thousand dollars, and the cashing or depositing of the check means the borrower is entering into a loan agreement with the lender. The appeal of the checks is that are a fast and easy way for a homeowner to obtain cash.

This initial loan is just an entry point into the financial life of the homeowner. The loan has an artificially high interest rate and monthly payment, in order for the predatory lender to be able to offer the homeowner an opportunity to refinance it, along with other debts, into another loan at a slightly lower rate. The predatory lender's ultimate goal is to get the homeowner to refinance their entire mortgage with them.

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63 "2nd Quarter Foreclosure Rates Highest in 30 Years", *Washington Post*, by Sandra Fleishman, September 14, 2002, p. H1.

An elderly couple who live mostly off of the husband's military pension received an unsolicited live check in the mail for a couple thousand dollars. Just after they paid off the extremely high-rate loan that resulted, Wells gave them another small loan. After the couple made their payments regularly, Wells called them to say that their on-time repayment record made them good candidates for a debt consolidation loan. Shortly thereafter, they received a second mortgage for $20,788 that paid off their previous Wells loan, total fees of $1,503, and other debts. Despite how Wells told the couple that they had good credit, Wells put them into a 15.5% interest rate, which the company now refuses to lower. Also at closing, Wells gave them a revolving line of credit for $5,000 and a 21% interest rate; the couple did not realize at the time that this debt is also secured by their house.

Recommendations

For Legislators and Regulators

Congress should not preempt the ability of state legislatures and local officials to protect their constituents from predatory lending abuses. The measures enacted so far have not affected the prime market or restricted access to credit, while setting basic protections against some of the most common abuses that strip home equity, trap borrowers in excessive interest rates, and force families out of their homes.

Federal and state banking regulators should not exempt institutions they regulate from state or local anti-predatory lending laws. Some of the examples of predatory loans cited in this report were made by national bank subsidiaries that the OCC has attempted to exempt from any state or local consumer protection laws. A predatory loan's impact on a homeowner is the same regardless of whether the source of that loan is an independent mortgage company or a national bank subsidiary; regulators should not compete for client institutions by letting them ignore consumer protection laws.

Congress, state legislatures, and local officials should pass strong anti-predatory lending legislation that would protect consumers from abusive practices, which have been especially targeted at lower-income and minority communities. The legislation should follow the basic structure of S. 1928 – Senator Paul Sarbanes' bill in the current 108th session of Congress – in strengthening the protections provided in the federal Home Ownership Equity Protection Act (HOEPA), extending those protections to more borrowers in high-cost home loans, and establishing penalties for violating the law that are more in line with the damage caused to borrowers.

Federal banking regulators should revise their proposed changes to the CRA regulations to ensure real scrutiny of any bank's involvement in predatory lending. It is widely recognized that the terms of most predatory loans – while inflicting tremendous financial damage on borrowers – are legal under current law. To provide a meaningful review of any involvement in predatory lending practices, regulators should examine whether a bank or its affiliate are making subprime loans to 'A' borrowers or regularly charging excessive origination fees and/or prepayment penalties.

Congress should increase the funding level for HUD's Housing Counseling Program well beyond the $40 million provided in FY 2003; it should be funded at least to $75 million this year to increase the availability or housing counseling for potential predatory lending victims. To come closer to meeting the demand for such services, the annual funding level should be increased in future years to $100 million. Fannie Mae, Freddie Mac, mortgage lenders, and state and local governments should mandate and expand funding for programs that provide basic information about lending and enable people to protect themselves from predatory practices. The most effective tool for helping minority and lower-income families to become successful homeowners is high-quality loan counseling and home buyer education by community based entities.

Annual funding for HUD's Fair Housing Initiatives Program (FHIP) should be increased from $20 million to at least $30 million, allowing the program to expand activities to combat housing discrimination through education, outreach, and enforcement**.** Such efforts are desperately needed to respond to the tremendous extra costs current lending patterns impose on communities of color. In addition, HUD and state and local agencies that enforce fair housing laws should more closely examine aggregate lending data when considering individual fair housing complaints.

Federal and State regulators should increase their scrutiny of predatory lending practices, including examining patterns of engaging in deceptive practices and the use of pricing systems like yield-spread premiums that inflate costs, as well as how these abuses are disproportionately aimed at protected classes. Federal and state authorities should devote the necessary resources to investigating and prosecuting lending abuses.

The federal banking regulators must not worsen the problematic impact of credit scoring by penalizing lenders for making 'A' loans to any borrower with a credit score below 660. Unfortunately, the regulators are proposing higher capital requirements for lenders making such loans under a July 2002 proposed rule regarding data collection on subprime loans made or purchased by banks and thrifts. Such a step could arbitrarily and unfairly exclude millions of consumers from the low rates and fees provided in the prime market, significantly raising the cost of homeownership for those families. In the final rule, the regulators also should follow the industry practice of classifying loans as subprime or not based on the rates and fees, not on the borrower's characteristics, and make public the data on subprime loan volume engaged in by banks and thrifts.

For Lenders

All lenders that engage in subprime lending should pledge adherence to a meaningful "Code of Conduct" that includes: fair pricing; limits on financed fees and interest rates to those consistent with the actual credit risk represented by the borrower; avoidance of abusive and equity-stripping loan terms and conditions, such as balloon payments, prepayment penalties, and single-premium credit insurance; full and understandable disclosures of loan costs, terms, and conditions; a loan review system that rejects fraudulent or discriminatory loans; making no loans which clearly exceed a borrower's ability to repay; and not refinancing loans where there is no net benefit to the borrower. These lenders should review their loan portfolios and compensate borrowers whose loans clearly violate this code.

Lenders should quit using misleading scare tactics to fight anti-predatory lending legislation and instead work with community and consumer groups to protect homeowners from abusive lenders and brokers that give the whole industry a bad name. Prime lenders should especially be supportive of providing borrowers with protections on high-cost home loans, since they have a direct interest in discouraging unscrupulous lenders and brokers from refinancing borrowers out of prime loans into mortgages with much higher costs.

Lenders that offer prime as well as subprime products should establish uniform pricing and underwriting guidelines for all of their lending subsidiaries and for all of the communities in which they do business, so that consumers in lower-income and minority communities do not receive worse terms because of where they live or the color of their skin. All 'A' lenders should increase their outreach and loan volume in underserved communities for their prime loan products.

Lenders should fund nonprofit housing counseling agencies to work with low and moderate income borrowers in the subprime market. Consumers need correct information to make informed loan decisions in the complex and often misleading subprime market transactions. Housing counselors are able to review income, credit, debts, and loan products to help the borrower find the best loan product for their needs and avoid predatory loan terms. Housing counseling agencies that provide one-on-one and classroom counseling have been found to reduce ninety-day delinquency rates by 34 percent and 26 percent, respectively.[64]

[64] "Prepurchase Homeownership Counseling: A Little Knowledge is a Good Thing," by Abdighani Hirad and Peter Zorn, in *Low-Income Homeownership: Examining the Unexamined Goal*, ed. Nicolas Retsinas and Eric Belsky, 2002, p. 147.

For Consumers

To Protect Yourself From Predatory Lenders

1-Before you begin loan shopping, visit your local non-profit housing counseling center to set up an appointment with a counselor to evaluate your financial situation and to discuss your loan needs. Call HUD toll-free at 1-800-569-4287 to find the nearest location, or go to www.acornhousing.org to find any local office of ACORN Housing Corporation, a HUD-certified loan counseling agency.

2-You can and should talk with a housing counselor if you are already in the middle of the loan process – you should still talk to a housing counselor to evaluate the loan offers you are receiving. Many of the borrowers who receive high cost loans could have qualified for a lower cost loan from a bank, even when refinancing.

3 -Ignore high-pressure solicitations, including home visit offers. Before you sign anything, take the time to have an expert, such as a housing counselor or lawyer, look over any purchase agreement, offer, or any other documents.

4 - Don't agree to or sign anything that doesn't seem right even if the seller or lender tells you that "it's the only way to get the loan through" or "that's the way it's done." Look over everything you sign to make sure all your information is correct, including your income, debts and credit. Do not sign blank loan documents or documents with blank spaces "to be filled out later."

5- Insist on getting a copy of your loan papers with the final loan terms and conditions in writing before closing, so you have enough time to examine them before you have to sign for the loan. If what you are asked to sign at closing is different from what you reviewed or what you were promised, don't sign!

Loan terms, conditions, and features to be aware of:

High points and fees: On average banks charge 1% or less of the loan amount for points and fees that go directly to them. If you are being charged more, ask why, and find out if you can do better elsewhere

Yield Spread Premiums: Be aware that brokers may be getting paid an extra bonus or yield spread premium for putting you in a higher cost loan than the best you can qualify for.

Credit Insurance products: Some lenders may try to sell you insurance policies along with your loan. Credit insurance policies are usually more expensive than other kinds of insurance, and seldom make financial sense

Prepayment Penalties: Many subprime loans include prepayment penalties, which require you to pay thousands of dollars extra if you decide to refinance the loan within the first several years of the loan, or if you sell your house during that period. Make sure you know if the loan has a prepayment penalty or not, and how much it will cost. Most 'A' loans do not have prepayment penalties at all; subprime loans may have slightly higher rates if they do not have prepayment penalties, but these rates should only be slightly higher.

Balloon Payments: Balloon mortgages have the payments structured so that after making all the monthly payments for several years, the borrower still has to make one big "balloon payment" that may be almost as much as the original loan amount. Most borrowers should stay away from balloon mortgages.

Adjustable Rates: Not all adjustable rates are bad, but adjustable rates can cause serious problems. Some adjustable rates can only go up from the place they start, and never down. Others are guaranteed to go up after some initial 'introductory' period. At times when interest rates are generally low, or if you have a fixed income, it almost never makes sense for you to get a variable rate loan. Do not count on lender promises that you can refinance before an interest rate changes.

Mandatory Arbitration: Some lenders include mandatory arbitration clauses in their home loans. Signing one of these means that you give up their right to sue in court if the lender does something you believe is illegal. There is no reason a lender who is doing business fairly should want you to give up your legal rights.

False or Incomplete Documents: Some lenders and brokers will "help" a borrower qualify for a loan they cannot afford. Watch out for any offers that depend on saying you make more than you really do, or have more money in the bank, or are expecting a gift. Don't sign loan paperwork that says your income or assets, or what you put down for the loan, are different from what they really are.

Missing Costs: Find out whether payments for homeowners insurance or tax payments and taxes are or are no included in your monthly payments. Usually these are included on 'A' loans, but more often they are not in subprime loans. Of course, if they are not included in your payment, you will have to pay them on top of what you pay every month.

Loans for more than your home is worth: Beware of offers to loan you more than your home is worth. Once you owe more than your home is worth other responsible lenders will not be willing to refinance you, and you will be stuck with whatever rate you were pushed into.

Home Improvement Scams

Some home improvement contractors work together with lenders and brokers to take advantage of homeowners who need to make repairs on their homes. They get the homeowner to take out a high-interest, high-fee loan to pay for the work, and then the lender pays the contractor directly. Too often, the work is not done properly or even at all.

Borrowers needing a home improvement loan should:

- Get several bids from different home improvement contractors.
- Not borrow more money than you need for the improvements. Many contractors will insist that you need to include all your other debts into this loan or try to talk you into getting other repairs you don't necessarily need. This only increases the loan amount for the lender.
- Check with your state Attorney General's office to see if they have received any complaints about the contractor you are considering.
- Don't let a contractor refer you to a specific lender to pay for the work. Shop around with different lenders in order to make sure that you are getting the best possible loan.
- Make sure any check written for home improvements is not written directly to the contractor. It should be in the borrower's name only or written to both borrower and the contractor. The borrower should not sign over the money until they are satisfied with the work they have completed. The home improvement contract should be written to allow the borrower to withhold payments if the work is not completed to their satisfaction, or not completed at all.

Property Flipping Scams

Some developers and real estate agents make a practice of selling homes for much more than they are worth. Often these properties need major repairs – but the problems are hidden from the buyer until after they are in the home. Because the new owners are paying more than they should be on their mortgages, they often have nothing left over to pay for those needed repairs. Too often, these problems lead to families losing their homes.

GET ADVICE.

- Homebuyer Counseling- Get homebuyer counseling from a HUD-approved agency before signing a contract to know the price range you can afford.
- Realtor- Have a Realtor or real estate agent who is working for you. Never deal directly with a seller or a seller's agent unless you have extensive real estate experience. Having your own Realtor will not cost anything more because the Realtor is paid out of the sale price of the house.

GET THE FACTS.

- Home Value- Find out how much the house is really worth before signing a contract. A local realtor can help find out the prices of other houses on that street or in the neighborhood that may have recently sold. Contact the local or state department of assessments to find out how much the house was previously sold for and what the current value is.
- Condition of Home- Have an independent home inspector make sure the house is in good condition. This should be in addition to the appraisal that the bank orders. While an appraisal estimates the value of the home, a good home inspection will identify repairs that are needed. Get your own inspector because an inspector recommended by the seller may not be working in their best interest.

DON'T RUSH.

- Do not move into the house before the loan is closed – even if offered free rent.
- If the seller agreed to make repairs to the home, do a final walk through to make sure the repairs have been completed <u>before</u> the loan closing.

If you feel that you have been discriminated against or are a victim of predatory lending call ACORN at 1-877-692-0233 or e-mail us at acorndcadmin@acorn.org to become part of our campaign against predatory lending.

Methodology

This report analyzes data released by the Federal Financial Institutions Examination Council (FFIEC) about the lending activity of more than 7,700 institutions covered by the Home Mortgage Disclosure Act (HMDA). HMDA requires depository institutions with more than $32 million in assets as well as mortgage companies which make substantial numbers of home loans to report data annually to one of the member agencies of the FFIEC--the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision--and to the Department of Housing and Urban Development (HUD). The reporting includes the number and type of loans correlated by the race, gender, income, and census tract of the applicants, and the disposition of those applications, in each Metropolitan Statistical Area (MSA) where loans are originated.

HMDA data does not distinguish between prime and subprime loans. In order to analyze the subprime market, we used the list of subprime lenders developed by the U.S. Department of Housing and Urban Development, and considered loans that were made by lenders on that list as subprime loans. HUD also maintains a list of manufactured housing lenders, and we excluded loans made by lenders on that list from the study entirely. Loans made by lenders that were not on either list were considered as prime loans for the purposes of this report. The data reported here also includes only conventional home purchase and conventional refinance loans, and not government-backed loans.

This report looks at the 2002 HMDA data – the most recent data available in this form, and also compares the 2002 data with that from 2001, from five years earlier (1997), and with the 1993 data – the earliest year for which HMDA data is available in its present form.

The report examines lending data for the nation as a whole, as well as for 117 individual metropolitan areas:

Anchorage, AK
Birmingham, AL
Mobile, AL
Montgomery, AL
Little Rock-North Little Rock, AR
Pine Bluff, AR
Phoenix-Mesa, AZ
Tucson, AZ
Bakersfield, CA
Fresno, CA
Los Angeles-Long Beach, CA
Modesto, CA
Oakland, CA
Orange County, CA
Riverside-San Bernardino, CA
Sacramento, CA
Salinas, CA
San Diego, CA
San Francisco, CA
San Jose, CA
Stockton-Lodi, CA
Colorado Springs, CO
Denver, CO
Bridgeport, CT
Chicago, IL
Springfield, IL
Fort Wayne, IN
Gary, IN
Indianapolis, IN
Wichita, KS
Louisville, K, KY
Baton Rouge, LA
Houma, LA
Lake Charles, LA
New Orleans, LA
Shreveport-Bossier City, LA
Boston, MA
Brockton, MA
Springfield, MA
Worcester, MA
Baltimore, MD
Detroit, MI
Grand Rapids-Muskegon-Holland, MI
Lansing-East Lansing, MI
Minneapolis-St. Paul, MN
Kansas City, MO
St. Louis, MO
Jackson, MS
Nassau-Suffolk, NY
New York, NY
Rochester, NY
Akron, OH
Cincinnati, Oh-K, OH
Cleveland-Lorain-Elyria, OH
Columbus, OH
Dayton-Springfield, OH
Toledo, OH
Oklahoma City, OK
Tulsa, OK
Portland-Vancouver, OR
Allentown-Bethlehem, PA
Harrisburg-Lebanon-Carlisle, PA
Philadelphia, PA
Pittsburgh, PA
San Juan-Bayamon, PR
Providence-Fall River-Warwick, RI
Columbia, SC
Sioux Falls, SD
Chattanooga, TN
Memphis, TN
Nashville, TN
Austin-San Marcos, TX

Hartford, CT	Charlotte-Gastonia-Rock Hill, NC	Brownsville-Harlingen-San Benito, TX
New Haven-Meriden, CT	Greensboro--Winston-Salem--High Point, NC	Corpus Christi, TX
Stamford-Norwalk, CT	Raleigh-Durham-Chapel Hill, NC	Dallas, TX
Waterbury, CT	Lincoln, NE	El Paso, TX
Washington, DC	Omaha, NE	Fort Worth-Arlington, TX
Wilmington-Newark, DE	Bergen-Passaic, NJ	Houston, TX
Fort Lauderdale, FL	Jersey City, NJ	Laredo, TX
Jacksonville, FL	Newark, NJ	San Antonio, TX
Miami, FL	Trenton, NJ	Salt Lake City-Ogden, UT
Orlando, FL	Albuquerque, NM	Norfolk-Virginia Beach-Newport News, VA
Tallahassee, FL	Las Cruces, NM	Richmond-Petersburg, VA
Tampa-St. Petersburg-Clearwater, FL	Las Vegas, NV	Seattle-Bellevue-Everett, WA
West Palm Beach-Boca Raton, FL	Reno, NV	Tacoma, WA
Atlanta, GA	Albany-Schenectady-Troy, NY	Madison, WI
Honolulu, HI	Buffalo-Niagara Falls, NY	Milwaukee-Waukesha, WI

A summary of the data for each city is available at www.acorn.org.

In ranking metropolitan areas with the most concentrated lending or greatest disparities in lending, we have excluded those metropolitan areas which had fewer than 50 loans originated to the group or groups relevant to each comparison.

Refinance Lending:

Excluded from rankings for refinance loans to African-Americans: Corpus Christi, Las Cruces, San Juan-Bayamon, Sioux Falls, Brownsville-Harlingen-San Benito, and Laredo.

Excluded from rankings for refinance loans to Latinos: Mobile, Chattanooga, Springfield, Sioux Falls, Jackson, Montgomery, Houma, Lake Charles, Pine Bluff.

Excluded from comparisons to low-income homeowners: Laredo, Pine Bluff, Brownsville-Harlingen-San Benito.

Excluded from low-income African-American rankings: Anchorage, Tucson, Pine bluff, Bakersfield, Fresno, Modesto, Salinas, Stockton-Lodi, Colorado Springs, Waterbury, Honolulu, Springfield, Des Moines, Wichita, Houma, Lake Charles, Brockton, Springfield (Mass.), Worcester, Lincoln, Reno, Jersey City, Albuquerque, Las Cruces, Albany, Buffalo, Rochester, Portland, Allentown, Harrisburg, San Juan, Providence, Sioux Falls, Brownsville, Corpus Christi, El Paso, Laredo, San Antonio, Salt Lake City, Tacoma, Madison.

Excluded from low-income Latino rankings: Birmingham, Mobile, M0ntgomery, Anchorage, Little Rock, Pine Bluff, New Haven, Stamford-Norwalk, Waterbury, Wilmington, Jacksonville, Tallahassee, Honolulu, Springfield, Fort Wayne, Louisville, Baton Rouge, Houma Lake Charles, New Orleans, Shreveport, Baltimore, Brockton, Springfield, Worcester, Jackson, Lincoln, Jersey City, Trenton, Las Cruces, Albany, Buffalo, Rochester, Greensboro-Winston-Salem, Raleigh-Durham, Akron, Cincinnati, Columbus, Dayton, Toledo, Tulsa, Allentown, Harrisburg, Pittsburgh, Sioux Falls, Chattanooga, Memphis, Nashville, Brownsville, Corpus Christi, Laredo, Norfolk-Virginia Beach, Richmond, Tacoma, Madison.

Excluded from comparison of minority census tracts to white census tracts: Houma, Anchorage, Modesto, Sioux Falls, Lincoln, Springfield, Brockton, Reno, Des Moines Allentown-Bethlehem, Lansing-East Lansing, Colorado Springs, San Juan, Worcester, Madison, Salt Lake City, Las Cruces, Laredo, El Paso, Stamford-Norwalk, Waterbury, Pine Bluff, Albany, Honolulu, Tacoma, Portland.

Home Purchase Loans:

Excluded from rankings for home purchase loans to African-Americans: Houma, Lincoln, Las Cruces, San Juan, Sioux Falls, Brownville, Corpus Christi, El Paso, Laredo.

Excluded from rankings for home purchase loans to Latinos: Mobile, Montgomery, Pine Bluff, Springfield (Ill.), Houma, Lake Charles, Shreveport, Jackson, Lincoln, Akron, Sioux Falls, Chattanooga.

Excluded from rankings for home purchase loans by borrower income: Laredo, Las Cruces, Pine Bluff, Salinas, San Juan.

Excluded from comparisons of home purchase lending by neighborhood minority population are those cities where less than 50 home purchase loans were made in either census tract with greater than 80% minority population or those with less than 20% minority population: Albany, Allentown-Bethlehem, Anchorage, Brockton, Colorado Springs, Des Moines, El Paso, Fort Wayne, Harrisburg, Honolulu, Houma, Lake Charles, Lansing, Laredo, Las Cruces, Lincoln, Little Rock, Madison, Modesto, Montgomery, Oklahoma City, Omaha, Pine Bluff, Portland-Vancouver, Reno, Salt Lake City, San Juan, Shreveport, Sioux Falls, Springfield (Ill.), Stamford-Norwalk, Tacoma, Waterbury, Wichita, Worcester.