From "Easy Credit" to a Credit Crisis: Subprime Loans and Foreclosures in Texas

Texas
APPLESEED

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ABOUT TEXAS APPLESEED

Texas Appleseed is a public interest law organization that has successfully worked for justice by addressing the root causes of important legal and social issues through research, advocacy, protection of rights and public awareness. Motivated by a desire to reduce an escalation in crimes targeting unbanked immigrants, Texas Appleseed has worked to expand access to financial institutions and low-cost financial services to underserved communities on several fronts. We are encouraging national, regional, and local banks and credit unions in Texas to adopt policies that make financial institutions more welcoming to immigrant and low-income consumers. Texas Appleseed also offers financial education material to help these consumers understand available financial products and services. As part of this work, Texas Appleseed shares the concerns surrounding predatory lending that have been voiced by so many in the wake of the subprime lending crisis.

INTRODUCTION

The subprime mortgage crisis is not only a national problem, but a Texas problem. During the so-called "easy credit" years of 2001-2006, there was an explosive growth in subprime mortgages.[1] In 2006, six of the top ten cities with the highest number of subprime loans were in Texas, with three Texas cities topping that list.[2]

African Americans and Latinos have been disproportionately affected by the increase in subprime lending in Texas, and nationally.[3] Houston is among the cities in the nation that has the greatest incidence of high-cost refinance lending to African Americans.[4] Several Texas cities are among those with the greatest disproportionate rate of high-cost loans to Latinos.[5] Texas border cities have been particularly hard hit. Many of these cities have an astonishingly high rate of subprime loans.[6]

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[1] FEDERAL RESERVE BANK OF DALLAS, ECONOMIC LETTER – INSIGHTS FROM THE FEDERAL RESERVE BANK OF DALLAS, Vol. 2 No. 11 (2007).

[2] ACORN FAIR HOUSING, FORECLOSURE EXPOSURE: A STUDY OF RACIAL AND INCOME DISPARITIES IN HOME MORTGAGE LENDING IN 172 AMERICAN CITIES 19 (2007), *available at* www.research@acorn.org.

[3] *Id*.

[4] *Id.* at 23.

[5] *Id.* at 24-25 (Lubbock, Corpus Christi, Brownsville-Harlingen, El Paso, Abilene, San Antonio, McAllen-Edinburg-Mission, Laredo, Houston-Sugarland-Baytown).

[6] *See* Graphic, *Subprime Mortgages Across the U.S.*, N.Y. TIMES, November 3, 2007 (in many cities along the Texas-Mexico border, subprime loans make up more than 50% of all mortgages), *available at* http://www.nytimes.com/interactive/2007/11/03/weekinreview/20071103_SUBPRIME_GRAPHIC.html

The unprecedented number of subprime loans made in the "easy credit" years has led to a foreclosure crisis across the nation. In the third quarter of 2007, the national foreclosure rate jumped to .78 percent, a record high, and the delinquency rate for all mortgages rose to 5.59 percent, the highest level in two decades.[7]

Until recently, Texas' foreclosure and delinquency rates were above the national average.[8] Texas had over 300,000 foreclosure filings in 2006 and 2007.[9] Though Texas has escaped some of the extremes seen in states like Nevada and California, it continues to place on the list of states with the highest foreclosure rates and the largest number of foreclosure filings in the nation.[10]

The high rates of subprime lending in Texas coupled with recent foreclosure jumps in certain areas of the state indicate that Texas is at risk of following the current national foreclosure spike. This crisis is the product of many years of poor lending practices.

DISCUSSION

Increase in Subprime Lending – Problems from the "Easy Credit" Years

There is a basic problem in our home mortgage lending system: Too many parties get their money on the front end of the transaction—realtors, brokers, even lenders, who often securitize and sell their loan portfolios.[11] There are systemic, built-in incentives to place people in subprime loans and loans with higher rates:

- Brokers receive a yield spread premium for placing borrowers in loans with rates that are higher than their credit score would merit. Some brokers report being offered a substantial "kickback" for placing clients into subprime loans.[12]
- Realtors and builders want to close transactions as quickly as possible and often steer clients away from down payment assistance programs and loans based on alternative underwriting criteria, because these beneficial programs can delay a sale.

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[7] Ray Perryman, *Despite Strong Economy, Texas Seeing Impact of Mortgage Woes*, MIDLAND REPORTER-TELEGRAM, December 29, 2007.

[8] *See* Brendan M. Case, *Subprime Crisis Hits Texas Homeowners*, THE DALLAS MORNING NEWS, July 5, 2007; Associated Press, *Texas Foreclosure Notices Top National Average*, THE DALLAS MORNING NEWS, September 6, 2007.

[9] Trisha Lynn Silva, *Foreclosure Rate Slows in Texas*, DALLAS BUSINESS JOURNAL, January 29, 2008.

[10] Brendan M. Case, *supra* note 8.

[11] *See* Chris Arnold, *Ex-Subprime Brokers Help Troubled Homeowners*, NATIONAL PUBLIC RADIO, April 9, 2008, *available at* www.NPR.org (discussing the industry's profit on subprime loans and incentives lenders offered to mortgage brokers to place borrowers in subprime loans).

[12] *Id*.

Given the incentive system, the lack of accountability for those who profit on the front end of home mortgage transactions, and the lack of regulatory controls, it is not a surprise to see the subprime mortgage market crashing.

> *Staff Sgt. Sandra Rolon spent more than a year in Kuwait…She thought of her time there in 2004 as a way both to serve her country and to pursue a more personal goal: to buy a home…By the summer of 2007, Ms. Rolon had put a down payment on a…house she knew she could not afford…the monthly costs on her subprime mortgage were $4,000. She earns about $2800 per month. The broker…told her she could simply refinance the mortgage later…She decided to redo the basement so that she could rent out the rooms for extra income. But the men she paid $8,000 to do the work disappeared, leaving her a gutted basement…Now, with the threat of foreclosure looming, she is in limbo, fighting to keep her home.*
> - Manny Fernandez, *Helping to Keep Homelessness at Bay*, NY TIMES, February 4, 2008.

The alarm around subprime lending began to sound even before the explosive growth in these practices began in 2001.[13] In April 2000, Consumers Union Southwest Regional Office issued a Texas-focused report that indicated that subprime lenders dominated refinance in low-income areas.[14] The problem was particularly acute for minority borrowers: five of the top 10 refinance lenders to African American borrowers were subprime, and only three were banks (or bank affiliates).[15] At that time, 27 percent of all African American refinance loans were issued by subprime companies, compared to 15.3 percent of Hispanic refinance loans and 6.3 percent of White refinance loans.[16]

In February 2001, the Federal Reserve Bank of Dallas released a memo to financial institutions that was designed to provide expanded guidance on the supervision of subprime lending. This memo included a section discussing predatory lending practices. The memo described what the agencies considered to be predatory or abusive lending practices:

> *Some…lending practices appear to have been designed to transfer wealth from the borrower to the lender/loan originator without a commensurate exchange of value. This is sometimes accomplished when the lender structures the loan to a borrower who has little or no ability to repay the loan from sources other than the collateral pledged. When default occurs, the lender forecloses or otherwise takes possession of the borrower's property (generally the borrower's home or automobile)…Typically predatory lending involves at least one, and perhaps all three, of the following elements:*
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> - *Making unaffordable loans based on the assets of the borrower rather than on the borrower's ability to repay an obligation;*
> - *Inducing a borrower to refinance a loan repeatedly in order to charge high points and fees each time the loan is refinanced ('loan flipping'); or*

[13] *See* CONSUMERS UNION SOUTHWEST REGIONAL OFFICE & AUSTIN TENANT'S COUNCIL, ACCESS TO THE DREAM – SUBPRIME AND PRIME MORTGAGE LENDING IN TEXAS (2000).
[14] *Id* at 2.
[15] *Id* at 1.
[16] *Id*.

- *Engaging in fraud or deception to conceal the true nature of the loan obligation, or ancillary products, from an unsuspecting or unsophisticated borrower.*

> *Loans to borrowers who do not demonstrate the capacity to repay the loan, as structured, from sources other than the collateral pledged are generally considered unsafe and unsound. Such lending practices should be criticized in the Report of Examination as imprudent. Further, examiners should refer any loans with the aforementioned characteristics to their Agency's respective consumer compliance/fair lending specialists for additional review.*[17]

Despite this warning, one year after this memo was issued the Texas Observer reported that predatory lending had become a "skyrocketing business."[18] According to this article, Fannie Mae estimated that "about half of all subprime borrowers could have qualified for a lower-interest loan, thus saving thousands of dollars over the life of the loan."[19] In the 2001 Fannie Mae report referred to in the article, Fannie Mae indicates:

- The assumption that lower-income status is synonymous with higher credit risk is a myth. In fact, lower-income consumers who receive mainstream credit perform roughly the same as middle and upper-income households receiving similar credit. Thus, the explosion of subprime lending in low-income neighborhoods is not necessarily related to creditworthiness of the applicants.[20]

- Research by Freddie Mac indicates that as much as 35 percent of borrowers in the subprime market could qualify for prime market loans. Fannie Mae estimated that number at closer to 50 percent.[21]

Soon after, Consumers Union Southwest Regional Office issued a follow-up Texas-focused report that confirmed this phenomenon – reporting that "in the refinance market, more than a third of borrowers get subprime loans – indicating that some borrowers with adequate credit for a prime loan are paying the higher cost of a subprime loan."[22] The same report focused on another trend – the disproportionately high number of women who were taking loans from subprime companies.[23] Though couples were over-represented in subprime loans, when the primary borrower was a woman, single women were particularly over-represented in subprime loans - with almost 40 percent of women who had no reported co-borrower taking a refinance loan from a subprime lender.[24] This report concluded that "women have been paying the 'subprime premium' at a much

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[17] Federal Reserve Bank of Dallas, Memo to Chief Executive Officer of Each Financial Institution and Others Concerned in the Eleventh Federal Reserve District regarding Guidance on Supervision of Subprime Lending (February 16, 2001).
[18] Jennie Kennedy, *The Predatory Lending Trap*, TEXAS OBSERVER, February 1, 2002.
[19] *Id.* at 2.
[20] FANNIE MAE FOUNDATION, FINANCIAL SERVICES IN DISTRESSED COMMUNITIES: ISSUES AND ANSWERS 36-37 (2001).
[21] *Id.*
[22] CONSUMERS UNION SOUTHWEST REGIONAL OFFICE, WOMEN IN THE SUBPRIME MARKET 2 (2002).
[23] *Id.*
[24] *Id.* at 3.

higher rate than men."[25] Though income was a factor, it did not eliminate the discrepancy.[26]

> *Even if other banks may have turned you down. We don't care – we want to get to know you…We'll get your loan application processed instantly, privately, and anonymously over the Internet.*
>
> \- Mailing from Home 123

Still, subprime lending continued to grow, with the industry accounting for $330 billion of U.S. mortgages in 2003, up from $35 billion just 10 years earlier.[27] Subprime lending had become a highly profitable business; nationwide, subprime loans accounted for about 10% of all mortgages in 2003.[28] In Texas, they accounted for 12.3% of all mortgages.[29] One loan company expected subprime loans to account for at least 50% of its revenue during 2004.[30] Mortgage companies began advertising subprime products through television, pop-up ads on the Internet and mass mailings, with much of the focus of these ads being the speed with which the loans could be processed.[31] In 2003, the top subprime lender (Ameriquest) captured 15.1% of the market share of subprime loans, which accounted for $30.7 billion, a 244% increase in subprime loans issued by Ameriquest in 2002.[32]

Several factors contributed to the rapid growth of the industry:

- Deregulation allowing "cross-fertilization" between banks and financial service firms;[33]
- The federal government's decision to lift mortgage interest ceilings in the 1980's;[34]
- Advances in "risk-modeling" which produced standardization;[35]mortgage lenders adopted the credit-scoring techniques first used in making subprime auto loans, which allowed them to sort applicants by "creditworthiness;."[36]
- The bond market for subprime loans, which provided the cash for the loans; as of June 30, 2006, mortgage-backed securities were the largest segment of the United States bond market, accounting for 23 percent of all outstanding bond market debt;[37]

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[25] *Id*.
[26] *Id*.
[27] Sue Kirchhoff & Sandra Block, *Subprime Loan Market Grows Despite Troubles*, USA TODAY, December 7, 2004.
[28] *Id* at 2.
[29] *Id*.
[30] *Id*.
[31] *Id* at 3.
[32] Kelly Barry, *Charts - Key Players in the Subprime Game*, USA TODAY, May 20, 2005.
[33] *Id*.
[34] *Id*.
[35] *Id*; FEDERAL RESERVE BANK OF DALLAS, HOMEOWNERSHIP AND AFFORDABLE LENDING – CASE STUDY 3 (2007).
[36] FEDERAL RESERVE BANK OF DALLAS, *supra* note 1, at 2.
[37] *Id*; *see also* FANNIE MAE FOUNDATION, FINANCIAL SERVICES IN DISTRESSED COMMUNITIES: ISSUES AND ANSWERS 14 (2001)(between 1995 and 1998, subprime loan notes sales rose from $10 billion to $87 billion); CENTER FOR RESPONSIBLE LENDING, LOSING GROUND: FORECLOSURES IN THE SUBPRIME MARKET AND THEIR COST TO HOMEOWNERS 28-29 (2006).

> *Mario Ramirez's mother had never met his two sons. But in 2005, the 84-year-old woman lay dying, and Mr. Ramirez had to get money to travel the 2,500 miles and take his 7- and 11-year-old sons to see her…A lender from Ameriquest Mortgage Co. suggested an answer: refinance his mortgage and pocket thousands. Two years later, payments on the adjustable-rate subprime mortgage ballooned to more than $1,250 vs. $540 a month he paid under his old loan. The Ramirez family is now in danger of losing their home.*
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> \- Brendan M. Case, *Subprime crisis hits Texas homeowners*, DALLAS MORNING NEWS, July 5, 2007.

- Increased use of mortgage brokers who had a high incentive to close loans but little incentive to worry about viability;[38]
- In Texas, the introduction of home equity lending.[39]

This growth continued through 2006. Between 2004 and 2005, the share of reported subprime loans increased by 79.9 percent.[40] The number of subprime loans that financed home purchases climbed significantly in 2005; until 2005, the majority of subprime mortgages were refinance loans.[41] The five cities with the highest incidence of subprime refinance loans originated in 2005 were all in Texas (Brownsville, McAllen, El Paso, Lubbock, and Longview).[42] The disparities between African American, Latino, and White lenders had increased, with African American borrowers comprising close to 60% of the share of subprime loans for home purchase in 2005.[43]

By the end of 2006, high-risk mortgage instruments made up 25 percent or more of all mortgage loans originated in the nation since 2001, with an estimated 10 to 12 million subprime loans originated since 2003.[44] During the same time period, FHA and VA loans declined significantly, indicating that many first-time homebuyers were opting for, or perhaps being funneled into, subprime loans rather than government loan programs.[45] In 2006, the subprime loan market represented a $665 billion industry.[46]

Impacts of High-risk lending on Texas Cities

In 2006, ACORN studied 172 metropolitan areas to determine the impact of subprime lending on cities across the nation. ACORN found that the metropolitan areas that were hardest hit by subprime refinance loans doubled between 2005 and 2006; in 2005, in 38% of the cities, more than one-third of refinances were subprime – by 2006, the problem was shared by 65% of the cities studied.[47] The percentage of metropolitan areas that had

[38] CENTER FOR RESPONSIBLE LENDING, *supra* note 37, at 29.
[39] CONSUMERS UNION SOUTHWEST REGIONAL OFFICE, AUSTIN FOCUS STUDY 1-2 (2002).
[40] CONSUMER FEDERATION OF AMERICA, SUBPRIME LOCATIONS: PATTERNS OF GEOGRAPHIC DIVERSITY IN SUBPRIME LENDING 1 (2006).
[41] *Id.* at 6 (In 2004, refinance loans made up 59 percent of the subprime loans and home purchase mortgages 32 percent; in 2005, refinance loans made up about 52 percent of subprime loans, and 43% of home purchase loans).
[42] *Id.* at 3.
[43] *Id.* at 5.
[44] Dr. James Gaines, *The Value of Subprime* (2006), available at www.thehomepimprovementzone.com.
[45] *Id.*; *see also* FEDERAL RESERVE BANK OF DALLAS, *supra* note 1, at 3.
[46] CONSUMER FEDERATION OF AMERICA, *supra* note 40, at 7.
[47] ACORN *supra* note 2, at 3.

more than one-third of all purchase loans that were subprime rose from 18% in 2005 to 26% in 2006.[48] Two of the 10 metropolitan areas with the highest rates of high-cost home purchase loans originated during 2006 were in Texas (Laredo and McAllen/Edinburg/Mission), and six of the 10 metropolitan areas with the highest rate of subprime refinance loans were in Texas.[49]

2006 Subprime Refinance Loans: Top 10 Texas Cities[50]

Texas Rank	**National Rank**	**City**	**Percent Refinances Subprime**
1	1	Brownsville-Harlingen	63.4
2	2	El Paso	58.9
3	3	Laredo	58.9
4	5	McAllen-Edinburg-Mission	58.1
5	6	Lubbock	57.0
6	7	Wichita Falls	55.9
7	11	Corpus Christi	52.2
8	16	Beaumont-Port Arthur	49.9
9	19	San Antonio	49.2
10	21	Abilene	48.9

ACORN's 2006 study found also that, even when controlling for income, minority borrowers are more likely than Whites to be issued a high-cost loan and find themselves in foreclosure.[51] This comports with findings from a 2001 Fannie Mae report, which indicates that the level of subprime lending to African American households and communities far exceeds the measured level of credit problems experienced by those households.[52]

The percentage of the average family's disposable income that was devoted to covering debt reached an all-time high in 2006.[53] Americans used refinances or home equity loans to pull money out of their homes at an unprecedented rate: over two trillion dollars over the 2001-2006 period.[54] When the economy and housing markets began to slow, many families found they could no longer sustain their housing debt.

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48 *Id.* at 3.
49 *Id.* at 19, 30.
50 *Id.* at 19-20.
51 *Id.* at 4.
52 Fannie Mae, *supra* note 20, at ll-12.
53 ACORN, *supra* note 2, at 8.
54 *Id.*

Today's Foreclosure Crisis

Factors Leading to the Crisis

The enormous growth in the number of subprime loans during the 2001-2006 period resulted in a foreclosure crisis that began in some parts of the nation toward the end of 2006 and continues through the present. This was, in part, driven by the cooling of the housing market in areas of the country where home prices climbed rapidly during the easy credit years.[55] As long as housing prices were climbing, those who had subprime loans were able to refinance their mortgages even if they were behind in monthly payments.[56]

> *Life didn't give Presley Sauls much…But what simple pleasures the retired steelworker had – family, barbecue, grandkids – were enjoyed at his small Oak Cliff house…The $36,000 paid off house was home base for his family for nearly 20 years. Mr. Sauls lost it a year and a half after taking out a property tax lien…The company that seized his home offers high-interest loans to mostly poor homeowners who owe delinquent taxes. Such companies can be quick to foreclose when their customers miss payments.*
>
> \- Kevin Krause, *Fast track to foreclosure*, DALLAS MORNING NEWS, February 11, 2008.

Refinancing placed these homeowners at higher risk of foreclosure later because those who refinance a delinquent loan typically end up with a higher interest rate.[57] Once the housing market cooled, homeowners with subprime loans were no longer able to refinance or sell their home to avoid foreclosure.[58]

However, it should be noted that even under more favorable economic conditions, as many as one in eight subprime loans originated between 1998 and 2004 ended in foreclosure within five years.[59] One study found that subprime loans with certain characteristics have a higher likelihood of default than subprime loans without those features, even when controlling for differences in credit scores.[60] The proportion of subprime loans with higher risk features has increased in recent years.[61]

Higher-risk subprime loans include those with adjustable interest rates, loans with prepayment penalties or balloon payments, and "low-doc" or "no-doc" loans which require little or no verification of the borrower's income or assets.[62] For example, the foreclosure risk for adjustable-rate mortgages (ARMs) may be as much as 62 to 123 percent higher than fixed-rate mortgages.[63] Hybrid or "exploding" ARMs were a predominant product in the subprime market during the easy credit years; these loans offer low "teaser" rates and a high probability of severe "payment shock" when the fixed-

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55 CENTER FOR RESPONSIBLE LENDING, *supra* note 37, at 11.
56 *Id.*
57 *Id.* at 12.
58 *Id.* at 13-14.
59 *Id.*
60 *Id.* at 21.
61 *Id.* at 22.
62 *Id.* at 21.
63 *Id.*

payment period ends.[64] The failure of most subprime lenders to escrow property taxes and hazard insurance adds to difficulties borrowers face when payments increase.[65]

Many who have been tracking the causes of the subprime crisis note the difference between foreclosure rates for subprime loans, and FHA, or government-assisted loans. During the growth of the subprime market, FHA became the lender of last resort for many credit-impaired borrowers.[66] This would lead to the expectation that the default rate for FHA loans should be comparable to or higher than subprime loans.[67] Instead, the foreclosure rate for FHA loans originated during the 2000-2005 time period is about half that of subprime loans, at about 6.29%.[68] A Dallas case study, conducted by the Federal Reserve Bank of Dallas, affirms findings that home loans made through government assistance programs have lower foreclosure rates.[69] Some suggest that the difference is due to structural differences between subprime and FHA loans – with FHA loans predominantly fixed-rate, amortizing loans which generally include establishing escrow accounts for taxes and insurance.[70]

Foreclosures: A National Crisis

In 2006, the subprime foreclosure rate was nine times that of the prime loan foreclosure rate, with Texas' foreclosure and delinquency rates slightly higher than the national average.[71] One report projects that for subprime mortgages originated from 1998 through 2006, 2.2 million U.S. households will lose their homes to foreclosure, costing those households as much as $164 billion.[72]

In the first quarter of 2007, the mortgage delinquency rate rose to 4.84%, up from 4.41% the year before.[73] Delinquency rates for subprime ARMs were up 131 basis points (from 14.44% to 15.75%), relative to the fourth quarter of 2006. By the third quarter of 2007, the delinquency rate for all mortgages was 5.50%, up 47 basis points from the second quarter of 2007, and up 92 basis points from one year earlier.[74] The percentage of loans in the foreclosure process had increased 29 basis points from the second quarter of 2007, and 64 basis points from a year earlier.[75] The total delinquency rate was the highest since 1986, and the percentage of loans in the process of foreclosure was at an all-time high.[76]

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[64] *Id*.
[65] *Id.* at 27.
[66] *Id.* at 25; *see also* Edmund L. Andrews & Vikas Bajaj, *Bush and Fed Step Toward a Mortgage Rescue*, N.Y. TIMES, March 5, 2008.
[67] CENTER FOR RESPONSIBLE LENDING, *supra* note 37.
[68] *Id*.
[69] FEDERAL RESERVE BANK OF DALLAS, *supra* note 35, at 7.
[70] CENTER FOR RESPONSIBLE LENDING, *supra* note 37.
[71] Gaines, *supra* note 44.
[72] CENTER FOR RESPONSIBLE LENDING, *supra* note 37, at 11.
[73] ACORN, *supra* note 2, at 5.
[74] Mortgage Bankers Association, *Delinquencies and Foreclosures Increase in Latest MBA National Delinquency Survey*, December 6, 2007.
[75] *Id.*
[76] *Id*.

Delinquency rates continue to rise –; in the fourth quarter of 2007, the delinquency rate climbed to 5.82 percent, with 5.29 percent of subprime loans in foreclosure.[77]

February 2008 marked the 26th consecutive month with a national year-over-year increase in foreclosure-related filings.[78] Freddie Mac and Fannie Mae report "soaring defaults on mortgages" that required them to raise fees to lenders in 2008.[79] Their losses, along with restrictions placed on them by the Office of Federal Housing Enterprise Oversight as penalties imposed after accounting violations revealed weaknesses in risk management and disclosure, have affected their ability to stabilize the housing market.[80] Some of the most sobering statistics relate to home equity; ***in the second quarter of 2007, for the first time since the federal government started tracking this data in 1945, American homeowners' debt on their houses exceeded their equity***.[81]

The impact of the foreclosure crisis is projected to hit communities with a large percentage of subprime loans the hardest. The crisis has affected entire communities – one neighborhood in Charlotte, North Carolina reports 115 of 123 homes in foreclosure.[82] Foreclosures have been shown to decrease the value of other homes in the neighborhood, and correspond to an increase in neighborhood violent crime.[83]

A 2005 study estimated that each foreclosure generates between $430 and $19,227 in direct costs to cities.[84] The Center for Responsible Lending projects that 24 states and 38 counties will experience declines of more than $1 billion each in local house prices and tax bases, with a total decline in house values and tax base from nearby foreclosures totaling $202 billion.[85] The U.S. Conference of Mayors estimates that the foreclosure crisis will result in a loss of $166 billion in gross domestic product in metropolitan areas.[86] A March 2008 survey of city officials indicated that the foreclosure crisis has caused a drop in cities' revenues, a spike in crime, more homelessness, and an increase in vacant properties.[87] The April 2008 report on foreclosure filings from RealtyTrac noted, "[p]roperty tax bases are eroding, putting municipal budgets in peril."[88] No matter how the cost is measured, the foreclosure crisis is sure to have a substantial impact both on the

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77 Louise Story, *No Lull in Mortgage Pitches*, N.Y. TIMES, February 18, 2008; Jeannine Aversa, *Home Foreclosures Hit Record High*, S.F. CHRON., March 6, 2008.
78 National Public Radio, *Foreclosure Filings Rise for 26th Straight Month*, March 13, 2008, *available at* www.NPR.org.
79 Al Yoon, *Freddie Mac Loss Swells as Mortgage Crisis Deepens*, REUTERS, February 28, 2008.
80 *Id*.
81 Jeannine Aversa, *supra* note 77.
82 *Id*.
83 ACORN, *supra* note 2, at 6.
84 *Id.* at 7.
85 CENTER FOR RESPONSIBLE LENDING, SUBPRIME SPILLOVER: FORECLOSURES COST NEIGHBORS $202 BILLION; 40.6 MILLION HOMES LOSE $5,000 ON AVERAGE (2008).
86 STATE FORECLOSURE PREVENTION WORKING GROUP, ANALYSIS OF SUBPRIME MORTGAGE SERVICING PERFORMANCE 3 (2008).
87 Haya El Nasser, *Foreclosure Crisis has Ripple Effect*, USA TODAY, March 11, 2008.
88 RealtyTrac, *Foreclosure Activity Increases 4 Percent in April*, May 14, 2008, *available at* www.realtytrac.com

individuals who face the immediate crisis of losing their equity and homes and on the communities in which they live.

In addition, some lenders continue to take advantage of borrowers during the foreclosure process. Some lenders have been chastised by judges for charging exorbitant fees as part of the foreclosure process.[89] One study showed that "questionable fees" had been added to almost half of the 1,733 loans in foreclosure that the study examined.[90] The foreclosure crisis also has resulted in a rash of "mortgage rescue" scams.[91] These scams take advantage of homeowners desperate for help by promising to buy their home and allow them to continue to live there until they can afford to buy it back.[92] They then find themselves forced out of the home when the new owner sells the house to someone else.[93] A number of web sites promise to help borrowers with the "hassles" of the foreclosure process, offering a "customized plan" to keep the borrower in their home in exchange for a fee.[94] Others contend they will repair borrowers' credit, allowing them to become eligible to purchase a home soon after foreclosure.[95] The FBI has set up 35 mortgage fraud task forces across the country to deal with mortgage fraud problems.[96]

The foreclosure crisis also affects renters. News reports indicate that renters may be forced out of their homes when foreclosure occurs. In Boston, nearly half of the foreclosures that took place in 2006-07 involved multi-family dwellings.[97] In some cases, this results in sudden eviction, with dishonest landlords failing to notify renters of foreclosure so that they can continue to collect rent even after they've stopped paying on a mortgage.[98] In California, renters may find their utilities are disconnected when lenders stop paying utility bills in an attempt to force renters out of properties that are in the foreclosure process.[99] Advocates in California report that illegal attempts at eviction have been on the rise, with some lenders offering renters "cash for keys" without making

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[89] *See In re Foreclosure Cases*, No. 1:07CV2282 et seq. (N.D. Ohio 2007)(plaintiffs, who were lenders seeking foreclosure, chastised by judge for "rush[ing] to foreclose, obtain[ing] a default judgment and then sit[ting] on the deed, avoiding responsibility for maintaining the property while reaping the financial benefits of interest running on a judgment"); Gretchen Morgensen, *Dubious Fees Hit Borrowers in Foreclosures*, N.Y. TIMES, November 6, 2007.

[90] Gretchen Morgenson, *Bundled Mortgages and Dubious Fees Complicate Foreclosure Cases*, N.Y. TIMES, March 4, 2008.

[91] Pierre Thomas et al, *Mortgage Rescue Scams Hit Close to Home*, ABC News, March 24, 2008, *available at* www.abcnews.com.

[92] *Id.*; *see also* Charles J. Jacobus, *Mortgage Fraud: Recognition and Prevention*, TEXAS BAR JOURNAL, Vol. 71, No. 3, March 2008, at 188.

[93] Thomas et al, *supra* note 91.

[94] Kenneth Harney, *Fannie Warns Homeowners Who Walk Away*, S.F. CHRON., April 13, 2008.

[95] *Id*.

[96] *Id*.

[97] Ric Kahn, *Foreclosing Costs – Owners Aren't the Only Ones Caught in the Mortgage Crisis*, BOSTON GLOBE, March 9, 2008.

[98] *Id*.

[99] John M. Glionna, *Renters Tell of Harassment in Foreclosure Proceedings*, L.A. TIMES, March 12, 2008.

them aware of their legal right to stay.[100] Anecdotal information suggests Texas shares problems with renters affected by the foreclosure crisis.

The Landscape in Texas

Though the housing market in Texas did not collapse as early as it did in some parts of the nation, in early 2007 the mortgage delinquency rate in Texas was higher than the national average.[101] In the second quarter of the year, 6.46 percent (compared to 5.12 percent nationally) of loans in Texas were past due, and 14.7 percent of Texas subprime loans were past due.[102] Almost 5.2 percent of adjustable-rate loans were delinquent, and 20 percent of adjustable subprime loans were in default.[103]

By the summer of 2007, Texas ranked third in the nation in the number of foreclosures.[104] At that time, subprime loans in Texas made up about 18 percent of mortgages, but accounted for about 45 percent of Texas foreclosures in 2006.[105] Six Texas cities were on the list of the nation's 100 cities with the highest foreclosure rates: Dallas (ranked 28th, with 49,133 foreclosure filings in 2007), Fort Worth/Arlington (ranked 29th, with 25,050 filings), Houston/Baytown/Sugar Land (ranked 39th, with 39,220 filings), San Antonio (ranked 44th, with 13,699 filings), Austin/Round Rock (58th, with 10,100 filings), and El Paso (77th, with 2,317 filings).[106]

By April 2008, the state had seen some improvement in its foreclosure filings, ranking fifth in the nation in the number of filings for that month.[107] However, some metropolitan areas are seeing an increase in foreclosure activities. The Austin area saw a 32 percent increase in foreclosures over May of 2007 and Dallas/Fort-Worth saw a 40 percent increase.[108]

However, a number of Texas cities have some of the highest subprime loan rates in the nation. Many of these loans are likely to end in foreclosure as interest rates on ARMs reset and increase, and housing prices continue to drop. The Center for Responsible Lending projects that the decrease in house values and tax base for Texans as a result of foreclosures will be over $2 billion.[109] In a report released late last year, ACORN studied the cost of the foreclosure crisis to cities across the nation. In Texas, it focused on eight cities.[110]

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100 *Id*.
101 Associated Press, *Texas Foreclosure Notices Top National Average*, DALLAS MORNING NEWS, September 6, 2007.
102 *Id*.
103 *Id*.
104 Brendan M. Case, *Subprime Crisis Hits Texas Homeowners*, DALLAS MORNING NEWS, July 5, 2007.
105 *Id*.
106 RealtyTrac, *Detroit, Stockton, Las Vegas Post Highest 2007 Metro Foreclosure Rates*, February 13, 2008, *available at* www.reatlytrac.com.
107 RealtyTrac, Foreclosure Activity Increases 4 Percent in April, May 14, 2008, *available at* www.realtytrac.com
108 *Foreclosures Jump in Central Texas*, AUSTIN AMERICAN-STATESMAN, April 19, 2008.
109 CENTER FOR RESPONSIBLE LENDING, *supra* note 85.
110 ACORN, FORECLOSURE EXPOSURE 2: THE COST TO OUR CITIES AND NEIGHBORHOODS (2007).

COST OF FORECLOSURE CRISIS TO TEXAS CITIES

City	Estimated Number of Foreclosures	Cost to Individual Homeowners	Cost to Lenders/Investors	Cost to Local Government	Loss of Home Value to Neighbors	TOTAL
Austin-Round Rock	998 loans	$7,188,552	$51,493,859	$19,196,429	$27,801,725	>$100 million
Brownsville-Harlingen	203 loans	$1,464,300	$6,157,244	$3,910,291	$1,768,582	>$13 million
Dallas-Plano-Irving	3,203 loans	$23,062,010	$152,852,413	$61,585,177	$79,679,246	>$300 million
El Paso	667 loans	$4,804,085	$22,456,224	$12,828,908	$11,373,671	>$50 million
Fort-Worth Arlington	1611 loans	$11,602,044	$93,626,985	$30,982,292	$40,085,062	>$175 million
Houston-Sugar Land-Baytown	5,882 loans	$42,353,626	$249,706,134	$113,101,828	$144,002,327	>$545 million
McAllen-Edinburg-Mission	344 loans	$2,473,862	$11,636,650	$6,606,243	$3,073,774	>$23 million
San Antonio	1,519 loans	$10,935,691	$56,430,732	$29,202,852	$33,545,233	>$130 million

Property tax lending, a relatively new type of lending in Texas, has lead to problems similar to those caused by subprime lending.[111] Property tax lending allows property owners who are delinquent on their tax payments to take out a loan to cover those payments.[112] Though legislation passed last session creating a preliminary regulatory structure for the industry, media stories document the negative impact of such loans on consumers.[113] Tax lenders scour county tax records looking for homeowners who are

[111] *See* Center for Public Policy Priorities, *What We Know About Property Tax Lending So Far*, October 18, 2007, *available at* www.cppp.org.
[112] *Id*.
[113] Kevin Krause, *Fast Track to Foreclosure*, DALLAS MORNING NEWS, February 11, 2008 (discussing families who lost homes after taking out high-interest loans to pay off delinquent property taxes).

delinquent in their property tax payments.[114] They then offer them loans, with closing costs that can rival home mortgage loan closing costs, to pay off the taxes. The property tax lenders become first in line to be paid in the event of a foreclosure on the property. Low-income and elderly are often targeted with these loans, though they may have other options to address back taxes.[115] These loans are particularly dangerous to low-income Texans who have paid off their homes. They stand to lose a home they have worked hard to pay off and often must leave stable housing for an uncertain future.

Addressing the Problem

Since the early indications of the impending crisis, there has been a great deal of discussion among policy makers and some substantive actions taken to soften the impact on homeowners. The following is an overview of some of the actions taken at the federal, state and local level.

Federal Initiatives

The economic stimulus plan is perhaps the most talked about response to the macro economic impacts of the housing foreclosure crisis, but it does not appear to include any new consumer protections to address the core issues that led to the crisis. The *Mortgage Forgiveness Debt Relief Act of 2007*, the only legislation to become law on this issue to date, was signed by President Bush in December 2007. The key provision of the Act impacting homeowners facing foreclosure is an exclusion of debt forgiveness on a "qualified principal residence" from gross income for income tax purposes.[116] This provision assists borrowers who have negotiated a restructuring of their mortgages that include forgiveness of a portion of the debt.[117] However, if a portion of the mortgage was used to pay for anything other than buying, building, or substantially improving a principal residence, that portion is not subject to the income tax exclusion.[118]

As part of the FY2008 Consolidated Appropriations Act, Neighbor Works America was allocated $180 million to distribute to HUD- approved counseling agencies and state housing agencies to provide home mortgage foreclosure counseling.[119] To date, $130 million has been distributed.[120] In Texas, Money Management International, a Houston-based credit counseling agency with regional operations, received $2.4 million. The Business Community Lenders of Texas received $83,000, and NeighborWorks Waco received $30,000.

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[114] *Id.*
[115] *Id.*
[116] Kathleen Pender, *Beware the Fine Print in Tax Waiver Law*, S.F. CHRON., April 24, 2008.
[117] *Id.*
[118] *Id.*
[119] Press Release, NeighborWorks America, NeighborWorks America Receives Appropriation to Provide Grants for Mortgage Foreclosure Mitigation Counseling (December 27, 2007), *available at* www.nw.org.
[120] NeighborWorks Center for Foreclosure Solutions, Mid-America Regional Council Powerpoint Presentation (March 26, 2008).

The federal government has engaged in two other non-legislative initiatives:

- In late August 2007, the Bush administration announced a new Federal Housing Administration (FHA) loan program, *FHASecure*, which allows homeowners, in default because of an increase in their adjustable loan interest rate, to refinance their loan if they have strong credit and payment histories. In April, the Bush administration promised to increase the size of this program to help an additional 100,000 homeowners by the end of 2008.

- The U.S. Department of Treasury has negotiated a 30-day foreclosure freeze, for borrowers who are 90-days delinquent, with major national lenders, including Bank of America, Citigroup, Countrywide, Fannie Mae, HSBC, JP Morgan Chase, Washington Mutual, and Wells Fargo. Termed "Project Lifeline," the initiative is designed to give homeowners more time to work out loan adjustments or other revised terms with lenders to avoid foreclosure. This initiative is part of the Hope Now effort, which also includes work out options for borrowers who are not delinquent, giving them the option to freeze their loan interest rate for up to five years.

These initiatives have been criticized by consumer advocates as "symbolic," with no real impact for consumers. Most homeowners facing foreclosure will not qualify for *FHASecure*, and the 30-day foreclosure freeze could merely delay the foreclosure process on unaffordable loans that are structured so that consumers will fail to repay. Simply freezing foreclosures does not affect this problem.

The U.S. Treasury announced that in January 2008, 45,000 homeowners had been given new loans through the Hope Now effort.[121] No details were provided regarding what kind of assistance was rendered or the long-term viability of any loan modifications that may have been made, raising concerns that the achievements may be over-stated.[122] In March, Hope Now reported that loan modifications were increasing.[123] However, this report was contradicted by another report released by a California government agency the same day, which found that loan modifications in California increased in late 2007, but leveled off in 2008.[124] Though Hope Now reported that assistance had been offered to more than 1 million homeowners nationwide since July, others pointed out that only 278,000 of these homeowners received loan modifications.[125] The remaining 758,000 were given repayment plans, which consumer advocates refer to as a "Band-Aid solution."[126]

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[121] David Cho and Renae Merle, *Merits of New Mortgage Aid are Debated*, WASH. POST, March 4, 2008, at D1.
[122] *Id*.
[123] Carolyn Said, *Despite Crisis, Mortgage Modifications Rare*, S.F. CHRON., March 4, 2008.
[124] *Id*.
[125] *Id*.
[126] *Id*.

There are a number of legislative initiatives on the table including the following major proposals:

- Requiring Fannie Mae and Freddie Mac to reduce the principal on mortgage loans they hold to reflect the value of the property. This measure is particularly relevant for markets that have experienced a significant drop in property values or for consumers who purchased homes at inflated prices.
- Allowing bankruptcy court judges to rewrite loan terms for individuals at-risk of losing their homes, including lowering interest rates. This proposal is opposed by the mortgage industry, with the Mortgage Bankers Association claiming that it would drive up the costs of all new residential mortgages.[127]
- Including higher standards for mortgage lenders and broker licensing, improved disclosures, and an avenue for civil action resulting in recession of the loan for certain violations that go uncured. This bill, the *Mortgage Reform and Anti-Predatory Lending Act of 2007,* passed the House of Representatives in November 2007. Advocates opposed this bill because it preempts stronger state-law based protections.
- Including tax breaks, money to counsel borrowers, and a $7,000 incentive to buy homes in foreclosure . These provisions are contained in the proposed *Foreclosure Prevention Act* that passed the Senate in April 2008.[128]
- Expanding relief for consumers. The proposed *American Housing Rescue and Foreclosure Prevention Act* passed the House in May 2008. This bill would expand the FHA refinance program; expands affordable loans through the FHA; strengthens regulation of Fannie Mae, Freddie Mac, and the Federal Home Loan Bank system; encourages mortgage modifications by protecting lenders from investor lawsuits; increases the Veteran's Administration home loan limit for high-cost housing areas; provides tax credits to spur home buying. This bill does not allow federal legislation to preempt stronger state laws. The Bush administration has already indicated that the White House will veto the bill if it passes the Senate.[129]

State and Local Initiatives

Responses to the home mortgage crisis on the part of state and local governments have run the gamut from legislation to litigation. Legislative and regulatory initiatives have focused on requiring mortgage lenders to provide value to their customers, including:

- Caps on fees;
- Capping the amount a mortgage payment can increase for the life of the loan to double the initial payment;

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[127] Michael A. Hiltzik, *Lenders Derail Plan to Let Bankruptcy Judges Modify Mortgages*, L.A. TIMES, April 22, 2008.

[128] David M. Herzenhorn, *Housing Aid Advancing in Congress*, N.Y. TIMES, April 11, 2008.

[129] David M. Herszenhorn, *Homeowner Rescue Bill Passed Despite Veto Threat*, N.Y. TIMES, May 9, 2008.

- Requiring lenders or brokers to act in the borrower's best interest, offering customers the best possible loan for which they qualify and that meet consumers' ability to repay, to avoid setting people up for foreclosure from the start;
- Creating stricter broker and lender licensing requirements;
- Banning mortgage refinance that does not have a quantified benefit for consumers;
- Requiring financial education and banning pre-payment penalties for "high cost" mortgages;
- Requiring improved disclosures for the total cost of the loan and the potential increase in monthly payments for adjustable rate mortgages;
- Requiring lenders to provide borrowers pre-foreclosure notices informing them of their rights and counseling options and to inform the state, so that it may also intervene to assist borrowers;
- Expanding consumer access to the courts (instead of forced arbitration) to address predatory lending issues;
- Adding new state or local level positions to enforce and prosecute predatory lending provisions.

Some state and local governments have made funds available to assist families facing foreclosures. These policies have spurred some controversy, on the premise that they are bailing out people who have made bad decisions or mismanaged their finances. Such views have not blocked all reforms in subprime lending, but a challenge remains to shift public discourse away from blaming the borrowers for the crisis at hand.

Building on the NeighborWorks Hope Now free national telephone counseling network for consumers facing foreclosure, some states have launched counseling lines. At the November 2007 meeting of the U.S. Conference of Mayors in Detroit, lenders pledged to allocate funds to support counseling hotlines. Such hotlines have been helpful for some consumers, but for many there is no resolution without significant changes to the loan terms and amount.

Some states have negotiated temporary freezes in interest rate increases for subprime loans. The California Governor negotiated a freeze with the top four subprime lenders in the state (Countrywide, GMAC, Litton, and HomeEq) for an undetermined period of time. This freeze could prevent foreclosures in the short-term for those who can afford their current payments.

Litigation & Formal Investigations

At the end of January 2008, the Federal Bureau of Investigation (FBI) opened an investigation into 14 companies including mortgage lenders, loan brokers, and Wall Street banks.[130] The FBI is coordinating their investigation with the Securities Exchange Commission (SEC), which is conducting about three dozen investigations into how

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[130] Vikas Bajaj, *FBI Opens Subprime Inquiry*, N.Y. TIMES, January 30, 2008.

subprime loans were made and packaged, and how securities backing them were valued.[131]

Litigation or formal investigation also has been used by some local and state governments to address the foreclosure crisis:

- Ohio Attorney General Marc Dann sued Freddie Mac, accusing it of defrauding Ohio's public employee pension fund by investing in subprime home loans. Dann also has accused 10 mortgage lenders and appraisal companies of pressing appraisers to inflate home values.[132]

- Massachusetts' Secretary of State has accused a unit of investment bank Bear Stearns Cos. of failing to disclose to investors a conflict of interest in its trading with two Bear-Stearns managed hedge funds. The funds collapsed in the wake of subprime-linked investments.[133]

- Massachusetts' Attorney General filed suit against Fremont General and Fremont Investment and Loan, a California-based subprime lender that originated thousands of loans in Massachusetts.[134] In February 2008, the state court judge issued a preliminary injunction ordering Fremont to work with state officials for up to 90 days to resolve late-mortgage cases before initiating foreclosure proceedings. If the parties do not reach an agreement, Fremont can foreclose but it must prove it took "reasonable steps" to avoid doing so.[135]

- New York's city and state comptrollers and their pension funds filed suit against Countrywide and its accounting firms, alleging fraud that resulted in millions of dollars in losses to investors.[136]

- Illinois and California's attorneys general filed suit against Countrywide Financial Corp.[137]

- The City of Baltimore, Maryland filed suit against Wells Fargo for targeting the local African American community with subprime predatory mortgages causing a string of foreclosures that have crippled many city families and neighborhoods.[138]

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[131] *Id*.
[132] Associated Press, *Regulator's Subprime Mortgage Cases*, February 18, 2008, *available at* http:news.findlaw.com
[133] *Id*.
[134] Press Release, Commonwealth of Massachusetts, Office of the Attorney General (October 5, 2007).
[135] Jerry Kronenberg, *Judge's Landmark Ruling Could Slow Foreclosures*, BOSTON HERALD, February 26, 2008.
[136] David Mildenberg & Karen Freifeld, *Countrywide's Underwriters Sued for Fraud by New York Agencies*, BLOOMBERG.COM, January 26, 2008.
[137] Associated Press, *supra* note 132; Vikas Bajaj, *supra* note 130.
[138] *Mayor and City Council of Baltimore v. Wells Fargo Bank, N.A.*, No. L08CV062 (Dist. Md. January 8, 2008).

- The City of Cleveland sued 21 banks, claiming their subprime lending practices have left behind abandoned homes, creating a public nuisance that hurts property values and tax collections.[139]

- The City of Providence, Rhode Island is exploring possible litigation against lenders who foreclose on properties and then leave them abandoned and vacant.[140]

- There has been a string of state attorney general law suits against foreclosure "rescue" firms citing fraudulent services.

Borrowers have filed suit against mortgage originators, lenders, and servicers:

- Borrowers have filed suit alleging violation of the Truth in Lending ACT (TILA), the Home Ownership and Equity Protection Act of 1994 (HOEPA), the Real Estate Settlement Procedures Act (RESPA), and the Fair Debt Collection Practices Act (FDCPA).[141] Some of these suits are filed as class actions.

- Minority borrowers have alleged that lenders deceptively promoted high-cost subprime loans in predominantly minority neighborhoods.[142]

In addition, stockholders have filed suit against public companies and their officers and directors, alleging that they misstated the value of subprime-related loans and other assets on their books or made false and misleading statements about their financial results.[143] In some cases, shareholders are attempting to add the mortgage company's auditing firm as a defendant, claiming that their accounting methods failed to identify risks and incorrectly calculated company's reserves for troubled home loans.[144]

Texas Initiatives

For the most part, Texas has been slow to respond to the state foreclosure crisis. The most aggressive action taken to date has been a series of lawsuits by the Texas Attorney

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139 Associated Press, *supra* note 132.
140 Press Release, City of Providence Rhode Island (January 17, 2008), *available at* http://www.providenceri.com/press/article.php?id=334.
141 *See* David Anderson, *The Subprime Lending Crisis*, TEXAS BAR JOURNAL Vol. 71, No. 1, January 2008; Gretchen Morgenson, *Borrowers Face Dubious Charges in Foreclosures*, N.Y TIMES, November 6, 2007; Peter Hull, *Mortgage Lender Named in Lawsuit*, THE POST AND COURIER, November 28, 2007; David Streitfeld, *Feeling Misled on Home Price, Buyers Sue Agent*, N.Y TIMES, January 22, 2008; Kristin Downey, *A Fight Over the Fine Print*, WASH. POST, February 6, 2008; Associated Press, *Countrywide Sued Over Foreclosure Costs*, February 27, 2008.
142 Chrissie Cole, *Ameriquest Named in Federal Class Action Lawusit Filed by the NAACP*, September 3, 2007, *available at* http://montgomery.injuryboard.com.
143 David Anderson, *supra* note 141; Phyllis Skupien, *Citigroup Sued Over Mortgage Exposure*, FindLaw, November 16, 2007.
144 Vikas Bijaj & Julie Creswell, *A Lender Failed. Did Its Auditor?*, N.Y. TIMES, April 13, 2008.

General against several companies for fraudulent foreclosure "rescue" services.[145] The Attorney General also has issued statements encouraging consumers to reach out to lenders if they have problems, but the state has not negotiated lender agreements with more meaningful relief for consumers.[146]

Texas has a state foreclosure prevention task force organized by NeighborWorks in addition to local task forces,[147] but their work is in its early stages and much has focused on consumer awareness of options for counseling. There is significant room for Texas to engage in a more proactive response to the state crisis.

Conclusion

Texas families are living the foreclosure crisis, with hundreds losing their homes daily. We need leadership at the state level pushing for concrete reforms and relief for consumers who have fallen prey to predatory lending schemes. Current indicators point to a worsening crisis for the state and the nation. It is in our economic and social interests to aggressively address the crisis and to put standards in place to avoid making the same mistakes again.

[145] *See* Press Release, Attorney General of Texas Greg Abbott, Court Freezes Assets of Foreclosure Assistance (Sept. 14, 2007); Press Release, Attorney General of Texas Greg Abbott, Clients of Foreclosure Assistance Solutions Urged to Call their Lenders Immediately (Oct. 19, 2007); Press Release, Attorney General of Texas Greg Abbott, Clients of Southern Residential Urged to Call their Lenders Immediately (Oct. 24, 2007); Press Release, Attorney General of Texas Greg Abbott, Clients of Abell Mediation, Inc. Urged to Call their Lenders Immediately (Dec. 14, 2007), all *available at* www.oag.state.tx.us

[146] Press Release, Attorney General of Texas Greg Abbott, Abbott Presses Companies to Adopt New Measures to Help Consumers Avoid Foreclosures (Nov. 6, 2007); Press Release, Attorney General of Texas Greg Abbott, Consumers Who Call Early May Have More Alternatives to Foreclosure (Nov. 12, 2007), both *available at* www.oag.state.ts.us

[147] *See* Charles J. Jacobus, *supra* note 92, at 191.