
Discrimination and Mortgage Lending in America

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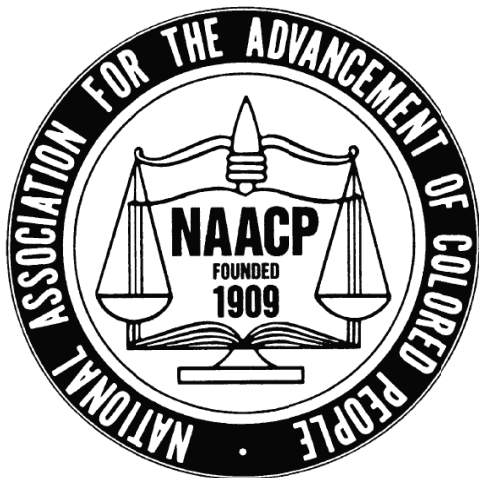
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DISCRIMINATION AND MORTGAGE LENDING IN AMERICA
A SUMMARY OF THE DISPARATE IMPACT OF SUBPRIME MORTGAGE LENDING ON AFRICAN AMERICANS

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INTRODUCTION

In July 2007 the National Association for the Advancement of Colored People (NAACP) filed suit in Los Angeles federal court against 15 of the country's largest mortgage lending institutions. As of the publication of this report, there are 13 major lending institutions named in the lawsuit, including Accredited Home Lenders, Inc.; Bear Stearns Residential Mortgage Corp. d/b/a Encore Credit; Chase Bank USA; CitiMortgage; First Franklin Financial Corp.; First Tennessee Bank d/b/a First Horizon National Corp.; Fremont Investment & Loan; GMAC Mortgage Corp., LLC; GMAC ResCap; HBSC Mortgage Corporation (USA) and HSBC Bank (USA), N.A.; Long Beach Mortgage Co.; SunTrust Mortgage; and Wells Fargo Bank, N.A., and Wells Fargo Home Mortgage, Inc., alleging systemic, institutionalized racism in subprime home mortgage lending.

In this first known lawsuit to challenge such lending practices on a broad scale, the NAACP alleges that these lenders violated the Fair Housing Act, the Equal Credit Opportunity Act, and the Civil Rights Act in their practices toward African Americans. Lenders named in the suit have all made high-cost subprime loans to African Americans who qualified for prime loans.

WHAT IS SUBPRIME MORTGAGE LENDING?

Subprime mortgage lending refers to home loans that are made to borrowers who do not meet the requirements for competitive, prime loans. These loans, designed for those with “blemished or limited” credit histories (FICO score of 620 or less), tend to be associated with higher interest rates—often adjustable rate mortgages (ARMs)—and tend to be more costly over time.*

WHO ARE THE VICTIMS?

From Wall Street to Main Street, rumors have dominated the public discourse regarding who is most affected by subprime lending and the foreclosure crisis that has ensued. The overall thrust of this discourse has been to blame an “irresponsible borrower”; however, deeper analysis reveals a different story.

Nationwide, African Americans are homeowners at a rate of 47.2 percent, compared to 75.2 percent for individuals who identify as non-Hispanic white.¹ However, this rate declined by nearly two percentage points between 2004 and 2007, as many African American homeowners have been unable to keep their homes during the mortgage crisis, largely as a result of predatory lending. Subprime lending is five times more prevalent in African American neighborhoods than in white neighborhoods,² but a recent study by Freddie Mac reveals that one in five subprime loan recipients *could have* received a lower-cost prime loan.³

“It’s like being over a barrel. I just wanted to be treated fairly and receive the best service. I was not given options or enough information for me to make an alternate decision. I want to get back to where I was financially before I received my loan.”

– Michelle A., Merced, Calif.

*Potential bias in credit scoring processes has been documented and discussed before Congress. See Written Testimony of Mr. Hilary Shelton, Director, NAACP Washington Bureau, on the Fair Credit Reporting Act and How It Affects Ethnic Minority Americans before the House Financial Services Committee (July 9, 2003).

National trends suggest that these disparities are largely due to discriminatory lending practices that adversely impact the accumulation of wealth in African American communities:

- Disparities in lending were “particularly worrisome for African Americans” with respect to very high-cost loans covered by the Home Ownership and Equity Protection Act (HOEPA). In 2005, African Americans were the **only racial group** to receive a substantially higher percentage of very high-cost loans than market-rate loans.⁴
- In 2007, African Americans paid an average of **128 basis points more** for loans than did their white counterparts; and in the subprime market, the difference was **275 basis points more** than their white counterparts.⁵
- Even when income and credit risk are equal, African Americans are **up to 34 percent more likely** to receive **higher-rate and subprime loans** with a prepayment penalty than are their similarly situated white counterparts.⁶
- African Americans are **15 to 16 percent more likely** to receive a higher-rate ARM purchase loan than if they were white.⁷
- These practices have placed at least **one million African Americans** and other people of color at great risk of loss of wealth—an estimated **loss of at least \$164 billion**.⁸

While discrimination in mortgage lending is illegal, most states and the District of Columbia have unfortunately experienced an impact from the practice. A recent study conducted by The Pew Charitable Trusts projects that subprime foreclosure challenges are evenly spread across states, indicating that the foreclosure crisis is a nationwide problem.⁹ Below is a snapshot of disparities in lending that disproportionately affect African American communities in cities and states across the nation.

In America’s Cities

In 2000, subprime refinancing was associated with at least 25 percent of all refinancing in approximately one-fifth of the 475 census tracts in **Atlanta, Georgia**. In the vast majority of these census tracts, the population was at least 30 percent African American.¹⁰ By 2005, African Americans, at 81.5 percent, had the highest share of foreclosure tracts in Atlanta.¹¹

In 2000, almost one-third of the census tracts (27 percent) in **Baltimore, Maryland**, experienced at least 25 percent subprime refinancing, with the greatest burden being experienced by African American neighborhoods (118 out of 156 tracts).¹² In 2008, the City of Baltimore launched a lawsuit against a major lender alleging discriminatory practices that had resulted in a foreclosure rate in African American neighborhoods that was four times the rate in white neighborhoods, and twice that of the city average.¹³

In 2000, **Chicago, Illinois**, witnessed 41 percent of its subprime refinancing occur in African American neighborhoods, compared to only 10 percent of the overall refinancing.¹⁴ In 2008, it was reported that across the metropolitan region, the racial and ethnic disparities evident in subprime lending were “echoed in foreclosure filings”—hitting the following neighborhoods the hardest: Austin, Washington Park, Quad Communities, Woodlawn, and Englewood.¹⁵

In 2000, subprime refinancing in **New York, New York**, represented one in four loans in more than half of all census tracts, with African American neighborhoods alone carrying almost 50 percent of all the

subprime lending in the city.¹⁶ In 2007, foreclosures in the state rose by 14 percent, with 59 percent of the foreclosures involving subprime borrowers (disproportionately African American and Latino).¹⁷

In 2000, African American neighborhoods in **Philadelphia, Pennsylvania**, carried approximately 10 percent of the refinancing overall, but 36 percent of the subprime market.¹⁸ By 2008, it was found that many of the neighborhoods more adversely impacted by foreclosures and predatory lending practices had below-average home prices and contained disproportionate percentages of African American and Latino households. In some of these areas, more than 30 percent of homes showed a pattern of loans indicative of predatory lending, and more than 28 percent of properties subject to foreclosure in Philadelphia's lower- and moderate-priced areas manifested multiple indicators of predatory lending.¹⁹

Across the Nation

Throughout the nation, African Americans and other communities of color are disproportionately represented among those exposed to discriminatory practices that have resulted in higher rates of subprime lending and unnecessary risk to these borrowers (Table 1).

Nevada leads the nation in the rate of foreclosed homes. Though African Americans represent only 6.9 percent of the adult population in the state, they received 43.5 percent of subprime loans. Throughout the state, 1 in 11 homes is projected to be foreclosed. In 2008, the Las Vegas area, which is ranked third among the metropolitan areas most impacted by the mortgage crisis, experienced an increase in foreclosure rates of nearly 144 percent from the prior year.²⁰

"My credit record warrants a better interest rate...This situation lets me know I can't expect equal treatment and that is frustrating."

– Amara W.
Waukesha County, Wis.

California is second to Nevada in terms of experiencing the greatest impact of subprime lending practices. African Americans represent 6.2 percent of the adult population in the state, but they received 52.3 percent of subprime loans. California is home to Stockton and Riverside–San Bernadino, two of the top three metropolitan areas affected by the mortgage crisis. One in 20 homes is projected to foreclose in California as a result of subprime loans, affecting the accumulation of wealth for thousands of African American and Latino families.

In **Mississippi**, subprime lending has increased steadily since 1997. By 2005, 38.8 percent of conventional home purchase mortgage loans made in the state were made by subprime lenders, at a rate that was 11.5 percentage points higher than the national average.²¹ Among the African American borrowers in the state, 63.6 percent received subprime loans, compared to 41.4 percent of Latino borrowers, 29 percent of white borrowers, and 20 percent of Asian borrowers. Conversely, only 36.4 percent of African American borrowers received prime loans, compared to 71 and 79 percent of white and Asian borrowers, respectively.²² One in 49 homeowners statewide is expected to experience foreclosure.

TABLE 1: SUBPRIME LENDING AND PROJECTED FORECLOSURES BY STATE

	African American Percent of State Population ²³	Percent of Subprime Mortgage Loans to African Americans in 2006 ²⁴	Total Projected Foreclosures in 2008–2009 from Subprime Loans in 2005–2006 ²⁵
Alabama	26%	44.5%	1 out of 60
Alaska	3.4%	23.4%	1 out of 39
Arizona	3%	38.7%	1 out of 18
Arkansas	15.3%	42.0%	1 out of 64
California	6.2%	52.3%	1 out of 20
Colorado	4%	40.3%	1 out of 25
Connecticut	9.3%	48.0%	1 out of 49
Delaware	19.8%	33.8%	1 out of 43
District of Columbia	57.8%	41.9%	1 out of 27
Florida	15.1%	52.3%	1 out of 26
Georgia	28.7%	40.2%	1 out of 27
Hawaii	1.7%	23.8%	1 out of 29
Idaho	0.3%	22.8%	1 out of 39
Illinois	14.7%	58.8%	1 out of 38
Indiana	8.1%	57.4%	1 out of 37
Iowa	2.2%	35.6%	1 out of 79
Kansas	5.1%	34.3%	1 out of 53
Kentucky	6.8%	37.8%	1 out of 55
Louisiana	32.5%	45.3%	1 out of 41
Maine	0.6%	36.9%	1 out of 60
Maryland	28.5%	43.7%	1 out of 26
Massachusetts	6%	52.4%	1 out of 48
Michigan	14%	70.7%	1 out of 36
Minnesota	4.1%	56.3%	1 out of 40
Mississippi	37.2%	49.8%	1 out of 49
Missouri	11.2%	59.4%	1 out of 38
Montana	0.3%	11.8%	1 out of 81
Nebraska	3.6%	40.5%	1 out of 64
Nevada	6.9%	43.5%	1 out of 11
New Hampshire	0.8%	35.0%	1 out of 49
New Jersey	13.1%	48.5%	1 out of 37
New Mexico	2.3%	26.1%	1 out of 56
New York	15.8%	49.3%	1 out of 32
North Carolina	21.2%	36.9%	1 out of 44
North Dakota	0.6%	16.3%	1 out of 165
Ohio	11.7%	54.8%	1 out of 37
Oklahoma	7.1%	42.3%	1 out of 47
Oregon	1.7%	31.1%	1 out of 34
Pennsylvania	10%	44.7%	1 out of 46
Rhode Island	5.5%	52.3%	1 out of 31
South Carolina	28.9%	42.9%	1 out of 42
South Dakota	0.8%	24.6%	1 out of 116
Tennessee	16.3%	52.9%	1 out of 36
Texas	11%	50.9%	1 out of 35
Utah	0.8%	32.3%	1 out of 25
Vermont	0.5%	29.5%	1 out of 86

	African American Percent of State Population	Percent of Subprime Mortgage Loans to African Americans in 2006	Total Projected Foreclosures in 2008–2009 from Subprime Loans in 2005–2006
Virginia	19.3%	36.4%	1 out of 33
Washington	3.3%	35.7%	1 out of 39
West Virginia	3.1%	30.0%	1 out of 89
Wisconsin	5.7%	61.6%	1 out of 60
Wyoming	0.8%	21.1%	1 out of 64

CONCLUSION: A CUMULATIVE DISADVANTAGE

Nationwide, African Americans comprise 12 percent of the population age 18 and over.²⁶ However, 52.4 percent of the loans awarded to African American borrowers are subprime and/or high-cost.²⁷ Across the nation, 1 in 33 homeowners is expected to lose a home to foreclosure—primarily as a result of a subprime loan made in 2005 and 2006. This national reality chills the ambitions of those seeking the American Dream of homeownership and threatens a loss of at least \$164 billion—a figure that disproportionately impacts wealth building among African American families.²⁸ While no single factor is responsible for the accumulated disadvantage presented by these disparities, discrimination in lending practices is a leading culprit.

DATA LIMITATIONS

The data presented in this document are intended to provide a snapshot of trends associated with lending to people of African descent in the United States. However, data are collected from multiple sources and, in some instances, may be subject to multiple interpretations. Also, foreclosure data are not collected or analyzed by race and ethnicity, which limits the ability to present specific details regarding the impact of foreclosures on African Americans and other people of color. Still, the trends presented in this document reflect a body of research that has confirmed the presence of discriminatory decision making in lending and has resulted in a disproportionate loss of homeownership and wealth among African Americans.

LEGAL UPDATE & EFFORT TO SEEK REMEDY

The NAACP is seeking comprehensive mortgage lending reform. Specifically, the Association is seeking declaratory and injunctive relief based upon the Fair Housing Act, the Equal Credit Opportunity Act, and the Civil Rights Act. In early 2009, a federal court denied a joint motion filed by those defendants seeking to dismiss the lawsuit. The court denied that motion, finding that the NAACP had standing to bring the lawsuit and that it had stated its claims adequately for the lawsuit to proceed. The lenders will now be required to turn over information and documents regarding their mortgage policies and practices.

The NAACP is represented by NAACP Interim General Counsel Angela Ciccolo of Baltimore, Maryland; Kabateck Brown Kellner, LLP, in Los Angeles; Fezell and Tighe, LLP, in Austin, Texas; Gary Bledsoe and the Law Offices of Gary L. Bledsoe & Associates in Austin, Texas; and Daniel Covich of Webb, Cason, and Covich, P.C., in Corpus Christi, Texas.

NAACP CALL TO ACTION

For the most recent outline of pending legislation and activities designed to support local, state, and federal policies addressing the practice of subprime lending, advocates are encouraged to visit the NAACP website (www.naacp.org) and download our Action Alerts.

Toward the goal of preventing discriminatory lending and unnecessary foreclosures, the NAACP also calls for the following policy responses:

- Congress is urged to enact pending legislation to protect Americans from predatory lending, such as Senate Bill 2452, the Home Ownership Bill, which is designed to prevent financial institutions from preying on uninformed populations and disproportionately exploiting people of color.
- Support should be given to the Foreclosure Prevention and Sound Mortgage Servicing Act of 2008 (H.R. 5679), which requires a homeowner or servicer to pursue specified priority loss-mitigation activities such as waiving late fees and other charges and establishing an affordable repayment plan or loan modification, forbearance, or short refinancing before a home may be foreclosed.
- Policymakers should establish at least a nine-month moratorium on foreclosure and judicial loan modifications prior to the occurrence of a foreclosure. Financial institutions receiving aid through the Troubled Asset Relief Program (TARP) should adhere to federal laws that prohibit discrimination and legislation that mandates their investment in economically distressed areas.
- Policymakers should increase low- and moderate-income housing stock, both single-family and multiunit, to replace those homes destroyed by natural disasters and to meet the increasing demands of a struggling economy by fully appropriating funds for the National Housing Trust Fund.
- There should be a public admission that renters are also impacted by foreclosures. Specific legal protections and other benefits (e.g., right to ample notice, moving assistance, severance packages, etc.) should be developed to help renters who are impacted (i.e., evicted) by home foreclosures.

The National Association for the Advancement of Colored People (NAACP) is the nation's oldest and largest grassroots civil rights organization. Formed in 1909 by a multicultural group of progressive thinkers, the NAACP is a nonprofit organization established with the objective of ensuring the political, educational, social, and economic equality of people of color. For nearly 100 years, the NAACP has challenged this nation to uphold its promise of equal opportunity toward the goal of eliminating racial prejudice and removing all barriers of racial discrimination through democratic processes.

NOTES

¹ U.S. Census Bureau, "Homeownership Rates by Race and Ethnicity of Householder: 1994 to 2007," Table 20 in *Annual Statistics* (Washington, DC: U.S. Census Bureau, 2007).

² U.S. Department of Housing and Urban Development, *Unequal Burden: Income and Racial Disparities in Subprime Lending in America* (Washington, DC: U.S. Department of Housing and Urban Development, 2000). See also National Community Reinvestment Coalition, The Opportunity Agenda, and Poverty & Race Research Action Council, *Homeownership and Wealth Building Impeded: Continuing Lending Disparities for Minorities and Emerging Obstacles for Middle-Income and Borrowers of All Races* (2006).

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⁴ National Community Reinvestment Coalition, *The 2005 Fair Lending Disparities: Stubborn and Persistent II* (Washington, DC: National Community Reinvestment Coalition, 2006), <http://www.ncrc.org/images/stories/pdf/research/ncrc%202005%20hmda%20report.pdf> (accessed March 11, 2009).

⁵ Federal Home Loan Mortgage Corporation, *Annual Report* (McLean, VA: Federal Home Loan Mortgage Corporation, 2007).

⁶ U.S. Department of Housing and Urban Development, *Unequal Burden*.

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⁸ Center for Responsible Lending, <http://www.responsiblelending.org>, 2009. See also A. Rivera, B. Cotto-Escalara, A. Desai, J. Huezio, and D. Muhammad, *Foreclosed: State of the Dream* (Boston, MA: United for a Fair Economy, 2008).

⁹ The Pew Charitable Trust, *Defaulting on the Dream: States Respond to America's Foreclosure Crisis* (Philadelphia, PA: The Pew Charitable Trust, 2008).

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¹¹ M. Duda and W. Apgar, *Mortgage Foreclosures in Atlanta: Patterns and Policy Issues* (Washington, DC: NeighborWorks America, 2005), http://www.nw.org/network/neighborworksProgs/foreclosuresolutions/pdf_docs/foreclosure1205.pdf (accessed March 9, 2009).

¹² U.S. Census Bureau, "Homeownership Rates."

¹³ Office of Mayor Sheila Dixon, "Baltimore Files First Lawsuit in Nation Seeking to Recover Costs for Injury to City Caused by Racially Discriminatory Lending Practices Resulting in Epidemic of Foreclosures in the City's Minority Neighborhoods," Press Release, January 8, 2008.

¹⁴ U.S. Census Bureau, "Homeownership Rates."

¹⁵ J. McCarron, "Foreclosures Spike; Communities Respond," LISC/Chicago, December 4, 2008, <http://www.lisc-chicago.org/display.aspx?pointer=6856> (accessed March 9, 2009).

¹⁶ U.S. Census Bureau, "Homeownership Rates."

¹⁷ "UPDATE 1- NY State Foreclosures Rise, Most in NY City Area," Reuters, July 31, 2008, <http://www.reuters.com/article/companyNewsAndPR/idUSN3133382920080731> (accessed March 9, 2009).

¹⁸ U.S. Census Bureau, "Homeownership Rates."

¹⁹ I. Goldstein, *Statement of Ira Goldstein* (Philadelphia, PA: The Reinvestment Fund, 2008).

²⁰ T. Richardson, "Nevada Leads Nation in Rate of Foreclosures," *Las Vegas Sun*, July 25, 2008.

²¹ *Mississippi Subprime Lending Fact Sheet* (Jackson, MS: Mississippi Economic Policy Center, n.d.), [http://www.mepconline.org/images/admin/spotedit/attach/4/Subprime Mortgage Lending Fact Sheet.pdf](http://www.mepconline.org/images/admin/spotedit/attach/4/Subprime_Mortgage_Lending_Fact_Sheet.pdf) (accessed March 2, 2009).

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²⁸ A. Rivera, B. Cotto-Escalara, A. Desai, J. Huezco, and D. Muhammad, *Foreclosed: State of the Dream* (Boston, MA: United for a Fair Economy, 2008)..