

Enforcement, resources and remedies

A. “Like HOEPA, the [AARP] Model Act sets triggers for high-cost loans. The interest rate trigger for high-cost loans is the yield on five-year U.S. Treasury securities plus 6 points and the points and fees trigger is 3 % of the loan amount. These provisions will not unduly affect legitimate subprime mortgage credit. Legitimate subprime mortgage loans have terms and features nearly identical to those included in conventional home loans. Generally, only the interest rates of legitimate subprime mortgage loans differ and are slightly higher than those in the conventional market. (*Home Loan Protection Act: A Model State Statute*, p.8.)

B. A potential remedy to the predatory lending situation is for industry to create a recovery fund for the victims of predatory lending, who are genuinely damaged by abusive lending practices. In addition to monetary compensation, by creating a list of lenders and brokers whose actions cause payout from the fund, the recovery fund could help prevent reputational damage to legitimate lenders and brokers. (*Predatory Lending Laws Trickle Down From Congress to City Hall*, The Mortgage Press, 2000/2001, p. 10.)

C. Darryl Smith, an ACORN member from Cleveland, Ohio, gave an example of what is being done in another jurisdiction. He testified that in Ohio they have a provision called “Real Estate Protection Act” where anything determined to be within 2 points of a high-cost loan required additional paperwork for the borrower. The borrower would have to sign off on a notice stating that [they understand] the mortgage will secure their home, they can lose their home, and they have a three-day grace period during which they can change their mind on the loan. (H&CD Hearing, 2/21/02, p. 42, lines 19-21.)

D. Robert Cox, of East LA Community Corporation, which is based in Boyle Heights, testified that it is important to allocate resources to pursue offenders. (H&CD Hearing, 4/17/02, p. 24, lines 3-5, lines 14-15.)

E. Barbara Jones, Staff Attorney in the Consumer Unit of the Legal Aid Foundation of Los Angeles (LAFLA) gave an example of a current elderly client who was taken in by a predatory lender. They are currently in litigation. The client is at home, sick, and worrying about losing his home. This case has been going on for over a year already. The current legal remedies available are not effective. They take an exorbitant amount of time, are very labor intensive, and there are no resources available. These are not the types of cases that private attorneys really want to “jump on the bandwagon” for because they are very costly cases. (H&CD Hearing, 4/17/02, p.29, lines 20-26 and p. 30 lines 1-2.)

F. Barbara Zeidman, Fannie Mae, talked about a current experiment with a leading bank and ACORN, which provides homeowners in financial trouble with a small infusion of cash and a re-written loan, then runs them on a three-year track to see if the loan is successful. (H&CD Hearing, 4/17/02, p. 32, lines 24-26 and p. 33, lines 1-2.)

G. Moises Vasquez, a private attorney, testified that if attorneys' fees clauses were added to the ordinance, private attorneys would take these cases like the civil rights cases that are very difficult. He asked that any new ordinance contain a provision for attorney's fees, to make civil enforcement actions economically viable. It is currently almost impossible for someone to afford a private lawyer to go out and fight these cases, and only if there is an attorney's fees clause in the ordinance will private attorneys be able to take these cases. (H&CD Hearing 4/17/02, p. 40, lines 20-23 and p. 41, lines 1-4.)

H. Enrique Velasquez, organizer with Figueroa Corridor Coalition for Economic Justice, supports not only the passage of an LA ordinance, but enforcement. (H&CD Hearing, 2/21/02, p. 28, lines 1-2 and lines 17-18.)

I. Carol Schatz of the Central City Association (CCA), representing CCA members Bank of America, Washington Mutual and Wells Fargo, suggested that enhanced prosecution in the Attorney's General's Office could provide an important mechanism in deterring predatory lending. (H&CD Hearing, 9/12/02, p. 5, lines 16-19.)

J. Dennis O'Sullivan, who was recently appointed by Mayor Hahn to the Affordable Housing Trust Fund Advisory Group, runs a non-profit agency called People in Progress in the San Fernando Valley. He suggested that a Joint Powers Committee be created with the County of Los Angeles where all home sales are recorded. He also suggested that a committee be created to analyze all of the lenders in Los Angeles and certify them, the same way restaurants are certified. (H&CD Hearing, 9/12/02, p. 12, lines 12-14.)