A PREDATOR IN AMERICA'S MIDST: A LOOK AT PREDATORY LENDING AND THE CURRENT SUBPRIME MORTGAGE CRISIS

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Abstract

In this article, the author seeks to highlight the issue of predatory lending in America, and its ongoing affect on the subprime mortgage market. The author will first examine what exactly occurs when a person receives a predatory loan, then the author looks at how these loans not only affect the homeowner's ability to keep his or her home, but also its affect on the economy of the United States as a whole. Finally, the author examines three new proposals to Congress, and assesses where America's next step should be when trying to combat the current recession and foreclosure crisis.

Key words

Predatory Lending- Discrimination-Foreclosure- Subprime Mortgage Market- Secondary Mortgage Market- Housing Boom- Recession- FHA Housing Stabilization and Homeowner Retention Act- The Neighborhood Stabilization Act of 2008- The Subprime Borrower Protection Plan

The United States of America is being confronted with an economic crisis of epic proportions. A period of economic history once marked with a housing, construction, and credit boom; it seemed for a few years that everyone in America found themselves as one of the lucky few to obtain a satisfactory loan to obtain their dream home. However, interest rates and finance terms that once made the subprime mortgage market seem anything if not lucrative, has now seen the last of its glory days. Foreclosures and bankruptcy claims are coming in by the thousands, and it is not just those from the lower class. Even people living in the most affluent neighborhoods in the country are also finding their homes close to the auction block. But with the Federal Housing

Administration (FHA) stating that it will run a deficit for the first time in its 74- year history, the near and distant future looks grim.[1]

How could the American government, a government that prides itself on the principles of homeownership and fair play, allow such a predator to stalk its own citizens? Who shall come to the rescue of the thousands who may lose their homes and all that they have worked towards?

This article seeks to analyze the affects of predatory lending on the recent housing and mortgage crisis in America. The article will analyze what predatory lending means, who are the victims of these loans, and how banks and financial institutions set themselves up for over $200 billion dollars of defaulted mortgage debt. Furthermore, the article will look at what this recent crisis means for American laws relating to lending and homeownership. The article will look at newly introduced legislation to the United States Congress, and what this new legislation might mean for the American people.

I. What is Predatory Lending?

According to a report issued by the United States Department of Housing and Urban Development (herein referred to as "HUD"), predatory lending loans can be "characterized by excessively high interest rates or fees, and abusive or unnecessary provisions that do not benefit the borrower, including balloon payments or single- premium credit life insurance, large prepayment penalties, and underwriting that ignores a borrower's repayment ability."[2] However, predatory lending is often not only characterized by the terms of the loan, but also characterized by who exactly is the prey in the situation.

According to a recent study published by New York University in an October 18, 2007 article in the New York Times, in New York City alone the issuing of so-called "subprime" and "predatory lending loans" were more often than not given to people in lower income brackets, or racial minorities.[3] When looking at the neighborhoods in the New York City area, the 10

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[1] Rachel L. Swarns, *Looming Deficit Impedes Federal Housing Agency*, *The New York Times*, *available at*: http://www.nytimes.com/2008/04/09/business/09fha.html ?_r=2&scp=1&sq=FHA&st=cse&oref=slogin&oref=slogin, (last accessed: 26 April 2008).

[2] Carr, James H. & Kolluri, Lopa, *Predatory Lending: An Overview*, 2001.

[3] Manny Fernandez, *Study Finds Disparities in Mortgages by Race*, *The New York Times*, *available at:* http://www.nytimes.com/2007/10/15/nyregion/15subprime.html ?_r=3&pagewanted=1&ei=5088&en=a9978e04a9864642&ex=1350187200&partner=rssnyt&emc=rss&oref=slogin, (last accessed: 26 April 2008).

neighborhoods with the highest rate of subprime borrowing occurred in the neighborhoods with the highest number of black or Hispanic residents.[4] However, the lowest rate of subprime borrowing occurred in neighborhoods with non-Hispanic whites.[5] When looking at data from the Home Mortgage Disclosure Act (HMDA) of 1975, an Act designed to obligate banks, mortgage lending, and financial institutions to report how many and what types of loans they are giving out, even when looking at blacks, Hispanics, and whites who earn substantial incomes, 24 percent of non-Hispanic whites took out a subprime mortgage, compared to 52 percent Hispanics and 63 percent of non-Hispanic blacks who did.[6]

Another study cited in the Times article, done by the Center for Responsible Learning, saw that after looking at 50,000 subprime loans nationwide, "black and Hispanics were 30 percent more likely than whites to be charged higher interest rates, even among borrowers with similar credit ratings."[7] This could go on to show that loan originators are not just targeting the minority poor, but targeting minority groups in general.

The targeting of racial groups in the housing and loan industry is not a new phenomenon. So-called "redlining" or "blockbusting" has always been a reoccurring problem within the American housing market. Title VIII of the Civil Rights Act of 1968 (this section commonly referred to as, "The Fair Housing Act") explicitly prohibited any person or group of persons from engaging in so called "blockbusting" or "redlining," which is defined as: "For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin."[8] In *U.S. v. Bob Lawrence*, the Supreme Court upheld this provision of the Fair Housing Act as constitutional, and further explained that this section of the Act was included in order to eliminate, "the badges and incidents of slavery in the United States."[9] Furthermore, the court found the practice of steering minorities to certain housing locations, because of their race, is repugnant to the Constitution and continued segregation of the races.[10] The anti-blockbusting provision was placed in the Fair Housing Act to insure that ever person, regardless of race or protected status, will be allowed to have the same opportunity as a white

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[4] Id.
[5] Id.
[6] *The Home Mortgage Disclosure Act*, *available:* http://www.ffiec.gov/hmda/history.htm
[7] Id.
[8] 42 usc 3604(e) (1968).
[9] *See, e.g., U.S. v. Bob Lawrence Realty*, 474 F.2d 115 (5th Cir. 1973), *Jones v. Mayer*, 392 U.S. at 439 (1968).
[10] Id.

person to purchase a home wherever the person shall choose. This same phenomenon has been occurring with the way banks and lending institutions continually dole out subprime mortgages, with hidden fees and payments, to America's less fortunate populations.

II. The Effect of a Subprime Mortgage

If a subprime mortgage seems so bad from the beginning, the first major question to be addressed is: Why would a bank ever want to originate a subprime loan if the consequences are so poor to the borrower?

The answer is most accurately given in a two-fold response: (1) The subprime mortgage allows a less than fortunate individual, normally a person with a less desirable credit rating, to obtain a loan to purchase a home and (2) The prospect of loaning out the money gives (a) the mortgage lender a fee and (b) allows for greater liquidity for investors on the secondary market, where these investors invest in mortgage-backed securities.

To begin, it is essential to look at how a person comes to afford a home in the first place. Ordinarily, there are many aspects of a person's financial status in society that a bank or lending institution will consider prior to issuing a loan to a person. One of the most important, and often make it or break it signs that a person will receive a specific type of loan, is his or her credit rating. A credit rating, generated by a person's history of debt, debt repayment, and mainly how the person is apt to spend money, is a huge indicator for a bank or financial institution regarding whether or not that person will be likely or unlikely to handle the newly acquired mortgage and whether or not the person will be able to make payments on time. Along with a credit rating, a person's annual income and savings are often looked at in order to assess how much capital a person has in his or her possession. These factors, along with others, go into lending institutions formula into decided what type of loan to originate.

A subprime mortgage loan is a risk, both for the lender and the borrower. The borrower risks the inability to pay every month, due to the terms of the subprime mortgage, while the lender risks losing a substantial amount of money if he must foreclose on a property where the amount owed will be greater than the amount the institution could receive for the sale. However, a subprime mortgage, which gives the borrower an interest rate below the prime mortgage rate, is often the only place where a person with little money or a poor credit history can go in order to obtain any mortgage at all.

For the borrower, a subprime mortgage is often characterized with an adjustable rate mortgage (ARM), rather than a fixed rate mortgage (FRM). An ARM often times makes it easier, in the beginning, on both the borrower and the lender. It allows the borrower to have low monthly payments in the beginning, and allows the lender to receive a fee from the borrower, and allows the institution to acquire an ARM, which will give the institution the prospect of acquiring enough money to avoid an asset-liability mismatch.

For the borrower a rise in interest rates, even 1%, could cause payment problems. For instance, according to HUD: "Over the 30- year life of an $81,000 home mortgage, one additional percentage point could add nearly $21,000 to the cost for the home buyer—not including the additional higher processing fees subprime loans typically carry."[11]A huge problem of subprime lending is that the bank or mortgage lender is never upfront with the borrower on the consequences of an ARM.

A subprime mortgage loan is often characterized by a lower monthly payment at the beginning, but an increase in monthly payments when the interest rate will rise. However, often times the rise in interest rate will lead to negative amortization. Negative amortization occurs when, "interest is not amortized over the life of the loan and the monthly payment is insufficient to pay off the accrued interest. The principal balance therefore increases each month and, at the end of the loan term, the borrower may owe more than the originally borrowed amount."[12] The loan is also characterized by, "inflated and padded costs, such as excessive closing or appraisal charges, high origination and other administrative fees, and exorbitant prepayment penalties that trap lower-income borrowers into the subprime market."[13] All of these characteristics can spell trouble for an uneducated borrower.

Furthermore, the bank or lending institution is at risk by giving a borrower a subprime mortgage; however, this risk can be made minimal by selling the loan on the secondary market. In order to make more money, so a lending institution can make more loans available to borrowers, an institution will package these loans and sell them to an investor in the secondary market.[14] One of the largest packagers of these loans for the secondary market is Freddie Mac, which is backed by the federal government. Freddie Mac will buy the loans from the lending institutions, package

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[11] Carr, James H. & Kolluri, Lopa, *Predatory Lending: An Overview*, 2001.
[12] Id.
[13] Id.
[14] *Problems loans to home buyers with less than top credit has become a big threat to the markets - and the economy, available at:* www.cnnmoney.com (last accessed: 26 April 2008).

them, and then sell them to investors on the secondary market.[15] All of this is to increase liquidity, in order for the original lender not to have to hold the loan in its own portfolio, again allowing it to make more loans available to borrowers.[16]

In an ordinary economic cycle, the number of subprime borrowers would more likely than not balance out the risk that both borrower and lender will have to make by giving the loan. However, when a period of economic boom is followed by a sharp decrease in home prices, lower consumer spending, and a larger than usual default on mortgage loans; no one, borrower, lender, or investor, can finish as a winner.

III. The Housing Boom and the Fall-Out

In the early 2000s, the American economy was marked by low interest rates, huge construction increases, inflated home prices, and a period of huge consumer spending and debt retention. During this period, many Americans were becoming first-time home buyers, refinancing their own homes to take out a second mortgage so they could have some cash, and selling their homes because they were being appraised at an inflated value. What would lead to an overvaluation in home prices and a rush to refinance?

The simple answer comes from the Federal Reserve Bank of the United States. After the 2001 recession, and in order to spur the economy, the Federal Reserve Bank began lowering interest rates at record speed.[17] At its lowest, a 1% interest rate meant big dreams for many Americans who had enough equity in their home to refinance and use the second mortgage to lower their payments and free up some money. This also made it easier for lower income, often minorities, to cash in on the low interest rate and receive a subprime mortgage. However, there were costs to this. First off, as described above, these subprime mortgages, characterize by hidden fees, payments, and ARMs, were often used to target lower income, less qualified borrowers and used to talk them into a risky financial situation. According to the Home Mortgage Disclosure Act, subprime lending became big business, and even bigger business in poorer and often uneducated

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[15] Jean Cummings & Denise DiPasquale, *A Primer on the Secondary Mortgage Market*, National Community Development Initiative Meetings, 1997.

[16] Id.

[17] *See*, http://www.federalreserve.gov/fomc/fundsrate.htm, (last accessed 27 April 2008).

markets.[18] In the HUD article, researchers found that, "subprime loans are three times more likely in low-income neighborhoods than in high-income areas, and five times more likely in black neighborhoods than in white neighborhoods."[19] Also, mortgage lenders often target the elderly, who are less educated on financial matters.[20] Specifically, this means that although many Americans could realize their American dream of homeownership, many banks and lending institutions were capitalizing on racial minorities, possibly hoping that they could not keep payments and the bank would have to foreclose and then reap the benefits of the sale of the home at an inflated price.

All good things must come to an end, and so must all economic bubbles. In 2005, construction halted, home prices began to fall, people stop buying and selling homes, mortgage rates went up, and the bubble began to burst. A slow in the economy can often lead to job loss, reduced consumer spending, fears of inflation, and people may have to stop paying their bills. When the Federal Reserve decided to raise the interest rate, this pushed many of these subprime, ARM borrowers well beyond their means. Many already possessed a loan for their down payment; a loan for their home, and most likely did not have enough capital in the bank to continue paying their monthly payment when the first jump in interest came along. This is exactly what happened to the subprime mortgage market. Many of those Americans felt the crunch of their ARMs and they could not keep up with the rising level of their monthly house payment.

Although foreclosure is never a good sign for anyone, it is an exceptionally bad sign when banks must foreclose on a home with hardly any equity and where the bank will lose a large sum of money on the loan, and the homeowner will have to lose his or her home. In 2007 alone, 2.2 million foreclosures were cited.[21] Along with the foreclosures, 25 subprime lenders filed for bankruptcy or exited the scene during the first few months of 2007, according to an article in Business Week.[22] This also meant that not only were homeowners and lenders feeling the pain, but also secondary market investors who had backed all of the subprime lending just a few years

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[18] *The Home Mortgage Disclosure Act*, *available:* http://www.ffiec.gov/hmda/history.htm
[19] Carr, James H. & Kolluri, Lopa, *Predatory Lending: An Overview*, 2001.
[20] Id.
[21] *See*, http://www.realtytrac.com/ContentManagement/pressrelease.aspx ?ChannelID=9&ItemID=3988&accnt=64847 (last accessed: 27 April 2008).
[22] Mara Der Hovanesian & Matthew Goldstein, *The Mortgage Mass Spreads*, *available at*: http://www.businessweek.com/investor/content/mar2007/pi20070307_505304.htm ?chan=rss_topStories_ssi_5 (last accessed: 27 April 2008).

before.[23] According to one of the Mortgage Bankers Association (MBA) surveys, in 2006, even though only 6.8% of mortgages were of the subprime, ARM type; they accounted for 43% of the total foreclosures.[24] In short, many of those poor, elderly, and minority populations who fell victim to the flashy advertisements, zero down payments, lower monthly payments, and hidden fees, are the largest percentage of people to lose their homes.

Once the subprime mortgage market had become riddled with delinquent payments, foreclosures, and lost profits for banks, investors, and the federal government; this crisis could only lead the American economy deeper into a recession.

IV. The Clean Up

Now that millions of Americans have been deceived into a less than perfect American dream, and now that the banks are losing money by the millions, and consumer spending has all but come to a halt; the American government must take its time in order to pick the most effective bail out. Along with looking for the most well liked solutions from all sides of the coin.

The Bush Administration, at the end of August 2007, called for a bail out of those mortgages who belong to borrowers with good credit who, because of the rise in interest rates, are now unable to make payments.[25] This bail out was entitled, "FHASecure."[26] Its aim was to help around 240,000 American families keep their homes by allowing them to refinance.[27] In turn, the government hopes that this will push lenders into offering Federal Housing Administration (FHA) loans, which do not come with the pitfalls of many predatory lending loans seen in the past.[28] Also, FHASecure would also try to increase liquidity in the system by using these loans, packaging them, and having Ginnie Mae-another federal program, securitize them.[29]

This plan may help thousands of Americans who, without the recent recession, would have maintained payments and who already have a good credit history. But, what about the thousands of others who were taken for a ride with a subprime mortgage because, unlike usual procedures that are used for mortgage lending, a bank or institution decided to look the other way from a less

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[23] Id.
[24] *See*, http://www.mbaa.org/NewsandMedia/PressCenter/58758.htm
[25] *See*, HUD News Release No. 07-123, *available at*: http://www.hud.gov/news/release.cfm?content=pr07-123.cfm (last accessed: 27 April 2008).
[26] Id.
[27] Id.
[28] Id.
[29] Id.

than great credit score, decided to not demand certain documents, and decided to lend to people who are not your average American?

Despite pressure from the financial sector and despite often cited free market principles, it would seem that the Federal Government should seize the opportunity to officially enact predatory lending, mortgage fraud, and consumer protection laws to insure that many Americans do not find themselves without a home. There are many bills still in committee, and this paper will analyze three such proposed laws and will assess whether or not they may, in the short or long run, stop the bleeding from the gaping wound in the mortgage market.

A. FHA Housing Stabilization and Homeowner Retention Act

This bill, first proposed by Chairman of the House Committee on Financial Services, Barney Frank, will offer much needed assistance to borrowers. The bill would give $300 billion dollars to many of the at-risk borrowers who are in the severe situation of losing their homes.[30] This money would go towards helping these borrowers refinance their now unmanageable mortgages into a type of mortgage that they would be reasonable for them.

The lender would have to agree to reduce the value of the home, and then take a loss on the original loan, but the lender would then receive a payment from the new loan, which would have to be FHA-guarantee.[31] This requirement, of a FHA guarantee, is most likely aimed at the egregious predatory loans that have affected much of America's poor and minority populations. The new loan must have reasonable terms, that the borrower can actually pay, and the borrower must promise to share future appreciation of the home with the government if the borrower decides to sell or refinance.[32]

A borrower must first contact an FHA-approved lender, the lender must agree to take the reduced value of the home, and if the lender does agree to do this then the existing mortgage, discounted now through the $300 billion bail out, will be paid off by the lender.[33] The borrower will be able to keep his home, and the lender will, with hope, be able to recover some of the money he would have lost had the property gone into foreclosure.

In order to be eligible for this new loan, a borrower would have to meet certain criteria:

1. Borrower must be the owner of the residence and it must be the borrower's principal residence.

[30] H.R. 5830, 110th Cong., 2d Sess. (2008)
[31] Id.
[32] Id.
[33] Id.

2. Borrower must promise that he or she has not "intentionally defaulted" on the mortgage, and the mortgage to debt-to-income ratio must be no less than 35 percent as of the 1st of March of 2008.
3. Those lenders, who agree to a new loan, must waive all penalties and fees that may exist from the original loan, and must accept payments towards the new loan as payments in full.
4. Lenders must then accept that they will suffer a significant losses, and these losses must be enough to satisfy and:
    a. Establish a 3% reserve for the FHA from these loan losses
    b. Pay the origination and closing costs of this new loan, up to 2%
    c. The lender must then bring down the loan-to-value ratio, to a new and fairer appraised value of the home, so the borrower can experience less debt.[34]

As well, there will be new requirements for the FHA loan:

1. The new loans must be based on new and more current appraised value of the home (not the inflated price from the original loan) and must be based on the borrower's income.
2. The new loan must decrease the borrower's debt.
3. The new loan must meet FHA limits for the duration of this program.
4. There will be an oversight board, which will set caps and limits on interest rates and fees.
5. The government, in order to insure that a borrower will not just automatically sell or change the loan without any penalty, will retain a future stock in the home price. Thus, if the borrower refinances or sells the home, the governments is entitled to:
    a. An *ongoing* exit fee that is equal to 3 percent of the original FHA loan; or
    b. A percentage of any profit that the borrower may make, although this percentage will decline with respect to how many years the borrower stays in the home without selling or refinancing.[35]

Also, these loans will still be able to be packaged, and backed by the Ginnie Mae program, and this loan program will run for 2 years, and will allow money for education and money for legal aid.

Although the program may help some borrowers and some lenders, it may feel too constricting to some lenders who would rather renegotiate new loans under their own terms. This may help the bank or lending institution maximize profits in such a dire situation. Too much control over percentages and loan requirements may mean that some people will be locked into a government backed loan, with the promise to repay the government a share of the value, because of lack of

[34] Id.
[35] Id.

other options. As well, a lender must first allow a borrower to enter into this new loan and must accept a loss for the previous mortgage. For the borrower this may seem like a good deal, but many lenders may just as soon foreclose and pay the cost of the defaulted mortgage down a different way. This could still leave many borrowers, who would like a new and more affordable loan, no choice and they could still lose their homes.

B. The Neighborhood Stabilization Act of 2008

This Act, introduced by Maxine Waters who is Chairwoman of the Subcommittee on Housing and Community Opportunity, has four specific aims:

1. To establish a loan and grant program administered by the Department of Housing and Urban Development to help States purchase and rehabilitate owner-occupied, foreclosed homes with the goal of stabilizing and occupying them as soon as possible, either through resale or rental to qualified families;
2. To distribute these loans and grants to areas with the highest foreclosure levels;
3. To provide incentives for States to use the funds to stabilize as many properties as possible; and
4. To provide housing for low- and moderate- incoming families, especially those that have lost their homes to foreclosure.[36]

In total, the bill would give a total of $15 billion dollars to States so that they could administer the grants and help restabilize neighborhoods that have been made vacant because of high foreclosure rates.[37] Half of this money would be for grants and half of the money would go to giving the 25 most populous cities in the country loans that they could use and give to housing authorities in order to occupy these empty homes. The grant money could be, "used toward property taxes and insurance during the pre-occupancy phase; operating costs such as property management fees, property taxes, and insurance during the period a property is rented; property acquisition costs; and State and grantee administrative costs. Grants could also cover closing costs."[38] This money would be able to insure that properties will stay in good legal standing, and to make it easier for people to transition into these homes with ease.

The loan money, however, would go to cities in order for them to, "finance acquisition and rehabilitation costs." [39] It would be so the city could then market the foreclosed home to sellers, and possibly market apartments to prospective renters. The sellers and renters, however, must

[36] H.R. 5818, 110th Cong. 2d Sess. (2008).
[37] Id.
[38] Id.
[39] Id.

meet certain qualifications in order to purchase one of those homes. Under the proposed law, the State would be required to try and help out those who had lost their homes and the homes could not be sold to a family with a median income that exceeded 140 percent of the area median income.[40] Also, properties that are purchased to then be rented out must be rented to families with an income at or below the area median income.[41] The new law is also designed to help the lowest income families, and to help members in the community such as, "income-eligible veterans, teachers, workforce, and homeless persons."[42]

The Federal Government would be paid back by the proceeds from the resale of the home or paid from the refinancing if it is a rental property, and the government would receive 20 percent of the appreciation cost, if there were appreciation, at the resale.[43]

This new law is designed to help those neighborhoods, which are rapidly losing people to foreclosure and too much debt, to help regain population and to help those who have already lost their homes to move back into the neighborhood. This law may help many areas in the country that may be faced with many vacant homes, and a recession in local economies because of the loss of homeowners and renters. These areas may also be suffering from depletion in property taxes, depreciation in home prices, and this law is designed to ensure that neighborhoods remain stable through the current recession.

However, this law may also pose some problems. Areas that have lost many homes to foreclosures, are more likely than not to be areas where predatory lending was also prevalent. A real assessment of the problem, should not just involve the government giving money to certain areas to do with what they wish, but the real move would be to begin to enforce, already existing laws, against banks and mortgage lenders who gave many of these families the loans in the first place. The money should be going towards fixing the lending system, instead of just fixing the current problem without thinking about the long-term effects. Without any real punishment to banks and mortgage lenders, and without any real consumer education, it is more likely than not that America's minority, elderly, and poor will remain the lending industry's main target for predatory lending.

C. The Subprime Borrower Protection Plan

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[40] Id.
[41] Id.
[42] Id.
[43] Id.

This plan has not been introduced to the United States Congress through a bill, but has been recently discussed in the Senate Committee on Banking, Housing, and Urban Affairs on April 10, 2008 by Dean Baker.[44] Dean Baker is one of the co-founders of the Center for Economic and Policy Research (CEPR). The CEPR is a think-tank in Washington, D.C. that is devoted to research and policy making in order to further democratic and social change in America. Dean Baker gave testimony to the United States' Senate on a program he calls, "The Subprime Borrower Protection Plan." Dean Baker's proposal addresses not only the recent economic crisis and rise in foreclosures, but also addresses the issue of predatory lending. In Baker's plan, homeowner's will be given the option to rent their home, instead of losing it. As well, this plan will not come with a hefty billion-dollar price tag, but will instead be administered by a judge. A homeowner will be allowed to remain in his or her own home and pay a fair market value rent. An appraiser will appraise the house for its current market rate and will determine the rent, and if a person is not happy with the rate they can choose to have it appraised a second time to determine the correct rental price. As well, even though the person will not own the home anymore, the bank or lender is free to sell off the mortgage to another person, but that person must understand that the former homeowner can indefinitely remain a tenant. The seven steps in total can be found on the CEPR's website.[45]

This proposal allows for a homeowner to stay in there home, and it allows also for the market to decide current rental rates. It also allows for the mortgage lenders to still have freedom with their mortgages. However, it does not directly punish or assess how to fix the problem of predatory lending, the plan does not give any help, money or options to a bank or mortgage lender that may have been engaging in predatory lending. It does not even give the lender the option of being able to engage in another subprime, predatory loan. It actually forces the lender to accept the previous homeowner as a tenant, and although they can sell or manage the property themselves, it still means that they must suffer the consequences of losing money and, at the same time, being unable to flip foreclosed houses in order to recoup maximum profits.

Some may find the idea of rebuilding neighborhoods in America, through an own-to-rent plan as dangerous. Having neighborhoods with a high percentage of renters may increase property

[44] *See*, http://www.cepr.net/index.php/publications/reports/turmoil-in-u.s.-credit-markets/ (last accessed: 4 May 2008).

[45] *See*, http://www.cepr.net/index.php/op-eds-columns/op-eds-columns/the-subprime-borrower-protection-plan/ (last accessed: 4 May 2008).

values and property standards. However, Dean Baker's plan points out that the people living in the homes will be previous owners and long-term renters. Both of these aspects will mean that the tenant will continue to keep the property in good condition, because they will feel a certain connection with being the home's previous owner.

The plan also does not assess what will become of the lost equity, and the lost mortgages to the banks and lending institutions. Although it may keep people in their homes for a monthly rate they can afford, they will not be getting anything from it. The idea of homeownership is so the owner can have the asset and equity in the home so the owner can use this for when he may later need to sell the home, or may need to use this equity for repairs or other financial reasons. Likewise, banks and lending institutions thrive on the advantages of being able to lend money and use these mortgages to bundle and sell on the secondary market. In order to have enough money in the banks to loan for mortgages, there must be liquidity in the market. With Baker's plan, this could mean that banks and institutions will lose a large amount of money that could be used to fund an increase in mortgages, which could also help to get the weakening housing market back on track.

V. Conclusion

As the United States economy continues to fall deeper into a recession, the only satisfactory response is to help. However, the real question to answer is how to help in the most effective way. As can be seen from the above analysis, the problems that are now surfacing in the United States economy can be partially attributed to a practice and pattern of discrimination through predatory home loans. By targeting the less educated, less wealthy, elderly, and minority populations in America, the banks and lending institutions received fast capital, but will now have to endure the long-term effects that will come from numerous foreclosures. The United States Congress and other economists have come to the rescue with laws and proposals that may amount to help, or they might just amount to a quick fix of the problem. The real answer might just have to come from time and the market itself. Home prices will have to now be reappraised at a more realistic price, while banks and other lenders will have to readjust their loan programs and may begin to think about their lending practices and what it may mean for the future.

For now, more Americans will lose their homes, possibly their jobs, and will continue to spend less and less money in the economy. Without a long-term plan regarding predatory lending, subprime mortgages, foreclosures, and credit problems, the current crisis may only be fixed for a

short period of time. Without real enforcement, real punishment, and real consumer education it will only be a matter of time before the lending predators once again begin to stalk their unassuming consumer prey.

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