

Legislative Solutions to Abusive Mortgage Lending Practices

Submitted to:

**U.S. House of Representatives Committee on Financial Services
Subcommittee on Community and Housing Opportunity
Subcommittee on Financial Institutions and Consumer Credit**

Submitted by:

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Introduction

Predatory lending is an attack on national efforts to increase the wealth and financial stability of low-income and minority populations through homeownership. While the topic of predatory lending has been the subject of national conversation for some time, it is not clear that the experiences of Hispanic families are well-known. As a result, the Latino perspective is often left out of the dialogue. The National Council of La Raza (NCLR) is the largest national Hispanic constituency-based civil rights organization in the U.S., dedicated to improving life opportunities of the more than 40 million Hispanic Americans living in the U.S. As such, we have a deep interest in the extent to which Hispanic families are being served through the nation's financial services industry. Based on recent research NCLR has conducted, there is reason to be concerned that inadequacies in the market and in the level of consumer protections are leaving far too many hardworking Hispanic families vulnerable to abusive lending practices.

NCLR has a long history of working in the arenas of housing and homeownership:

- NCLR has developed the largest Latino-serving network of housing counseling agencies, known as the NCLR Homeownership Network (NHN), dedicated to providing low- and moderate-income Latino homebuyers individualized homeownership counseling. Since its inception in 1997, NHN agencies have helped more than 17,000 low-income families become new homeowners.
- NCLR conducts research and industry analyses, and actively engages relevant public policy issues such as preserving and strengthening the Community Reinvestment Act (CRA), supporting strong fair housing and fair lending laws, increasing access to financial services among low-income people, and promoting homeownership in the Latino community.

Predatory Lending in the Latino Community

Latino homebuyers are important stakeholders in the predatory lending debate. Since the findings of the 2000 Census established Latinos as the nation's largest minority, the Latino population has continued to grow rapidly and is expected to reach 15.5% of the population by 2010. With this growth come an increasing demand for homes and the accompanying financial services. While less than half (48%) of all Latino households own their own home, the number of Latinos entering the homebuying market continues to rise each year, making their needs and challenges significant to the mortgage market overall. As it is for most Americans, the home is the most significant wealth-building vehicle for Latinos, representing financial stability for the future. Predatory practices cut this process short, resulting in less home equity, lost investments, or possibly even foreclosure.

NCLR's soon-to-be-released issue brief, *Jeopardizing Hispanic Homeownership: Predatory Practices in the Homebuying Market*, identifies a number of elements systemic to the mortgage industry which make it a challenge for low-income Hispanic families to access the best-priced mortgage loan products. To pick just one example, financial institutions with the most competitive mortgage products are not reaching the Hispanic market and are being outperformed by their more expensive competitors. As a result, the range of products available to many Latino families, whether it is due to perception, market penetration, or geographic targeting, is more expensive than their risk may warrant.

As *Jeopardizing Hispanic Homeownership* explains in further detail, the experience of Latino families demands the attention of Congress and other stakeholders. Experiences unique to Hispanic and immigrant communities must become more prominent within the current dialogue on predatory lending. Specifically:

- **More than one in five Hispanic families does not use traditional mortgages to purchase their home.** Contract for Deed, also known as Land Contract, is used by 12.5% of Latino families, most of whom live in rural areas or are recent immigrants. This product works in a “rent-to-own” fashion where families make an initial downpayment and regular monthly payments that are not necessarily deducted from the principal. After several years, the family assumes title by acquiring a traditional mortgage to pay the balloon payment. Another 10% of Latino homeowners own a mobile or manufactured home. Because there are few, if any, traditional mortgage products for mobile and manufactured homes, buyers use dealer financing similar to an auto loan. Both products are fraught with danger for the consumer; they are locally regulated and are often used in communities where there is little infrastructure for investigation of fraud claims and enforcement.
- **Hispanic families rely heavily on mortgage brokers.** The advantage of mortgage brokers is the wide variety of loan products to which they have access. The disadvantage is that they have an economic interest in pushing the cost of a loan higher to produce a higher fee for themselves, called a Yield Spread Premium (YSP). In 2002, mortgage brokers originated approximately two-thirds of the nation’s mortgages and between 65% and 80% of those mortgages not purchased by one of the Government Sponsored Enterprises (GSEs), also called “non-conforming” mortgages, which includes mortgages insured by the Federal Housing Administration (FHA) and subprime mortgages; approximately 45% of Hispanic purchase mortgages and 25% of Hispanic refinance mortgages are non-conforming. Inconsistent licensing requirements and limited federal oversight leave mortgage brokers unaccountable to consumers.
- **Hispanic families are likely to be steered into more expensive mortgage products while purchasing their home.** Barriers to the mainstream mortgage market, recent fair lending research, and analysis of recent data from the Home Mortgage Disclosure Act (HMDA) suggest that there is a high probability that many Hispanic families used mortgages to purchase their homes that are more expensive than warranted by their credit risk. For example, the rate at which Hispanic families are using the most expensive mortgage products is twice that of White families. Moreover, because Hispanic families do not refinance as often as other families, they may miss opportunities to save money by reducing their interest rate and increase their home equity.

Recommendations

Clearly, too many Hispanic families are falling between the cracks of the current system of consumer protection laws. Latinos, like all Americans, deserve a regulatory structure and consumer protections that ensure their every opportunity to get a fairly-priced home loan. While most stakeholders agree that something must be done to curb predatory lending, there are several points of disagreement about how to accomplish the task without interfering with the delivery of

mortgages to consumers who need them. New federal legislation should guarantee families the most amount of protection possible, without reducing current safeguards. NCLR recommends the following:

- **Increase consumer protections and enforcement that target abusive practices.** Congress must increase protections that accurately target abusive practices in both the purchase and refinance markets. Remedies include: limiting excessive fees by incorporating all fees in the definition of a high-cost loan under HOEPA; prohibiting unnecessary add-ons that provide no added home value such as single premium credit insurance, especially in high-cost loans; and holding brokers and financial institutions accountable for their role in structuring a deceptive or abusive loan at various points in the purchase process.
- **Establish federal regulation and monitoring of mortgage brokers.** Congress has an obligation to create a regulatory body, or amend an existing agency's charter, to monitor mortgage brokers. In addition, mortgage brokers should be subject to HMDA data reporting requirements, including the type of institution for which their loans are packaged.
- **Increase access to the mainstream mortgage market.** Congress can improve access to the mainstream mortgage market by helping to standardize the subprime mortgage market, incorporate mortgage finance companies into the regulatory oversight systems, and increase enforcement of new and existing regulations. Subprime lenders can make their business more transparent by providing a public listing of terms and fees, as is done for prime products. In addition to the tightening of consumer protections, federal agencies must proactively investigate complaints, including claims of fraud at the local level.
- **Support housing counseling.** While housing counseling is by no means a cure to predatory lending, it is a critical means by which Hispanic and immigrant families become connected with fair-priced and affordable mortgages. Community-based organizations, often the first point of contact for families looking for information, are able to assess families' financial situation individually and give them the information they need to make complex decisions.

The national debate around solutions to predatory lending cannot move forward without including the concerns of the Latino community. NCLR stands ready to work with all stakeholders to establish meaningful protections and plans for enforcement which will ensure that the right to equal access to mortgage lending is protected for all Americans.